

**The Ramakrishna Mission
Institute of Culture Library**

**Presented by
Dr. Baridbaran Mukerji**

RMICL--8

2

16852

MEMORIAL

OF

JOHN POLLARD WILLOUGHBY, ESQUIRE,

Of the Bombay Civil Service,

TO

THE HONOURABLE THE COURT OF DIRECTORS

OF

THE HONOURABLE EAST INDIA COMPANY.



London :

PRINTED (BUT NOT PUBLISHED) BY S. McDOWALL, No. 95, LEADENHALL STREET.

1835.

RMIC LIBRARY	
Acc. No.	16852
Class No.	954.03
	WIL
	✓
	✓
Checked	N.R.

R.C

POLITICAL DEPARTMENT.

TO W. H. WATHEN, ESQUIRE, *Secretary to Government.*

SIR,

1. With reference to the concluding paragraph of my Letter, dated the 27th of September last, I have now the honour to forward my Memorial to the Honourable the Court of Directors of the Honourable East India Company, and to request that it may be transmitted to England by an early opportunity.

2. I beg to explain, that the delay which has occurred in transmitting this Memorial, is solely attributable to severe illness, which for some time incapacitated me from attending to business of any kind, and obliged me to leave my Station on Sick Certificate.

3. In reference to the concluding Prayer of my Memorial, I beg respectfully to request, that the Right Honourable the Governor in Council will be pleased to transmit a Copy of the Memorial to the Supreme Government of India, with my humble solicitation that His Excellency the Right Honourable the Governor General in Council will be pleased to consider that part of the Case connected with Colonel Ballantine's abusive Pamphlet, still in circulation to my prejudice, and to remove the interdict imposed upon me by this Government, tantamount to a prohibition, against vindicating myself from the unjust and unfounded aspersions contained in the Publication adverted to.

I have the honour to be,

SIR,

Your most obedient, humble Servant,

BOMBAY,

J. P. WILLOUGHBY,

11th February, 1835.

Bombay Civil Service.

In a Letter to Government of subsequent date, the Memorialist requested that, in the event of any of the facts and assertions contained in his Memorial being questioned, he might be called upon to support them by the evidence in his possession; since the voluminous nature of the Case had compelled him in many instances to refer in general terms only to such evidence, instead of quoting it at large.

TO THE HONOURABLE THE COURT OF DIRECTORS
OF THE
HONOURABLE EAST INDIA COMPANY.

The humble Memorial of JOHN POLLARD WILLOUGHBY,
a Senior Merchant of the Civil Service, of the Bombay
Establishment,

MOST RESPECTFULLY SHEWETH,

MEMORIALIST.

THAT your Memorialist arrived in India in February 1819, and soon after was appointed by the Right Honourable Sir Evan Nepean, then Governor of Bombay, to a situation in the Political Branch of the Service, in consequence, as he was informed, of the creditable testimonials of good conduct he had brought with him from Haileybury College. During the sixteen years of his subsequent servitude, your Memorialist has sedulously endeavoured to perform the duties of his station with zeal and fidelity, and has frequently received the strongest testimonials of approbation from three successive Governments, and from Your Honourable Court. It is, therefore, with the greatest reluctance and concern that your Memorialist now finds himself compelled to trespass upon the time and attention of Your Honourable Court in defence of his official conduct, which he conceives has recently been most undeservedly called in question by the present Government of Bombay, under circumstances of peculiar mortification; and at the same time to bring to the notice of Your Honourable Court certain proceedings of the Government, by which he considers himself to have been seriously aggrieved, and which, whilst they are a subject of grievance to him, are calculated to discourage the exposure of corruption.

His period of service. Obtains the approbation of three Governments, and with reluctance appeals for justice against the present Government.

2. That in July 1828, having been ordered* by his official superior, the Resident at Baroda, to report upon the Accounts of the Mahce Caunta Agency in Gujerat, your Memorialist was compelled to make known several transactions, apparently deeply implicating the character of the former Agent, Colonel Ballantine.

Origin of his Memorial as far back as July 1828.

3. That, though fully impressed with the conviction that the Charges preferred against Colonel Ballantine were of far too serious a character to be passed over without full enquiry, yet unwilling, unless such was expressly enforced upon him as a duty, to bring these transactions forward, and anxious to avoid (what is now made matter of charge against him) the public inconvenience which might ensue from the exposure, your Memorialist, in the first instance, made the late Sir John Malcolm, then Governor of Bombay, acquainted with them, and requested to be instructed, whether he considered your Memorialist bound to lay them before Government, or

Refers the transactions out of which it has originated, to the late Sir John Malcolm, who directs that they be reported upon in the usual way.

* Resident's Letter, dated 16th July, 1828.

whether it was more expedient to suffer them to remain unexposed. That the late Governor, after having forwarded the Report of your Memorialist to Colonel Ballantine, and called upon him to explain, if he were able, the transactions adverted to, in returning it to your Memorialist, informed * him that it was his duty to bring them publicly forward; for that, after making every allowance, the case was either one “of the completest incompetence, the most criminal negligence, “or the grossest corruption.” That, as in duty bound, he accordingly did so, by forwarding to Government the Report in question, bearing date the 20th of September, 1828.

Colonel Ballantine is furnished with a copy of the Report of the Memorialist, and replies to the Charges preferred against him in October 1829.

4. That Colonel Ballantine was in due course furnished with copy of this Report, and required to reply to the Charges of breach of trust and dishonesty preferred against him; and that various communications took place between Government on the one hand, and the Accountant General, Colonel Ballantine, and your Memorialist, on the other, with the view of eliciting the truth. That Colonel Ballantine finally replied to the accusations of your Memorialist in October 1829, his Defence being comprised in a Letter of 175 sheets, with an Appendix of 145.

Nature of Colonel Ballantine's Defence.

5. That Colonel Ballantine's communications were of the most rambling, discursive, and unsatisfactory nature, and any thing but a refutation, or even a plain consistent denial of the Charges advanced; but were particularly marked by a spirit of arrogant and unfounded recrimination against your Memorialist, and undisguisedly charged him with having preferred false and malicious charges, and with having resorted to criminal and disgraceful proceedings, with the view of promoting and supporting them.

Option afforded Colonel Ballantine of having his conduct judicially investigated, which he does not avail himself of.

6. That in May 1830, Government resolved that the Charges against Colonel Ballantine should be judicially enquired into, and appointed Mr. James Sutherland, then Visiting Judicial Commissioner for Gujerat, to conduct the enquiry. That it must be obvious that a resolution of this kind, on the supposition of innocence, could not fail to have been highly satisfactory to Colonel Ballantine; but in reply to the letter of Government, apprizing him of the arrangement, he stated † that he “might possibly have quitted India, on account of his health,” before the enquiry could commence; and plainly indicated it to be his desire that Government should come to an immediate decision upon his Case, by requesting that the amount of his alleged demands ‡ upon the Public Treasury, viz. Rupees 52,338, should immediately be discharged.

Government in consequence abandon its first resolution, and declare Colonel Ballantine a public defaulter to the extent of 1,13,140 Rupees.

7. That on the receipt of this communication, Government thought fit to abandon the resolution above adverted to, and, recalling the instructions already issued to Mr. Sutherland, entered into a review of the Charges preferred by your Memorialist against Colonel Ballantine, and his answers; and having done this, declared him to be a public defaulter to the extent § of Rupees 1,13,140. 1. 92½, and placed him under stoppages for this amount.

Further adjudge Colonel Ballantine guilty of various derelictions of duty.

8. That on this occasion Government, after a full consideration of the whole subject, “further adjudged Colonel Ballantine to have been guilty of dereliction of duty in the following “instances:”—

* Letter from Sir John Malcolm, dated 11th Nov. 1828.

† Letter to Government, dated 1st July, 1830.

‡ From paragraph 92 it will be seen, that not only was the whole of these disallowed, but Colonel Ballantine has been adjudged a defaulter to the extent of Rupees 50,294. 2. 60 by the Government of 1834, and more than double that amount by every other Authority by whom his Accounts have been examined.

§ Vide Colonel Ballantine's Pamphlet, page 3.

1st. In failing to deliver over to his successor the records of his Agency, English or Native, in a complete state.

2d. In failing to deliver over Account Books, the keeping of which must have been essential to the due discharge of his duties ; and some of which, from the evidence of persons on the Political Agent's establishment, are known to have existed.

3d. In furnishing the Resident of Baroda, and the Accountant General, with irregular, inconsistent, and incorrect accounts, the results of which are far more favourable to his pecuniary interests than could have been exhibited by correct and true accounts.

4th. In having levied Mohsullee beyond what was required as compensation for the Mohsul, after the orders of Government, expressly forbidding such excess of levy, had been communicated to him ; also in having unauthorizedly levied, without any account rendered, various collections in the Sadra Bazar.

5th. In having received from the Guicawar, or, which was the same thing, deducted in his accounts with the Guicawar, from the tribute of the Mahee Caunta, remittable to Baroda, a sum of Rupees 7,705 per annum*, on account of *Seerpao*, or annual presents to the Chiefs, and not having disbursed it in the way intended ; but, on the contrary, having converted it, either wholly or in part, to his own benefit.

9. That on the same occasion your Memorialist was advised, in a letter† from the Chief Secretary to Government, that “ the Governor in Council having pronounced this decision, feels it, I am directed to observe, an act of justice to express to you the high sense which he entertains of the uncompromising determination to perform your public duty, and the regard for the honour of the British name in India, which influenced you to prosecute those laborious and painful investigations which have led to the above-mentioned result.” Government thus according to your Memorialist the only reward which can accrue to him who is possessed of sufficient moral fortitude to perform, with unflinching firmness, the most painful and invidious of duties, beyond the inward satisfaction to be derived from doing what is right.

Memorialist receives the strongest commendations from the Government of 1830.

10. That the Government who pronounced the above decision against Colonel Ballantine was full and complete, consisting of the Honourable Sir John Malcolm, as Governor; His Excellency Sir Sidney Beckwith, as Commander in Chief; and the Honourables John Romer and William Newnham, as their civil colleagues ; all men of the purest integrity and of acknowledged ability.

The Government of 1830, how composed.

11. That your Memorialist has understood that all these matters were duly reported to Your Honourable Court ; and that although the abandonment of the design, entertained at one time by Government, to submit Colonel Ballantine's conduct to the test of a judicial enquiry, was disapproved of by Your Honourable Court, all the other proceedings of Government were concurred in as just and proper.

These proceedings reported to, and approved by the Honourable Court, excepting the abandonment of the judicial enquiry.

12. That these proceedings having been long since before Your Honourable Court, your Memorialist is not obliged to enter so largely into detail as would be requisite, had not Your

Minute details therefore unnecessary.

* For eight years the aggregate sum being Rupees 61,640.

† Dated 5th October, 1830.

Honourable Court thus become familiar with the merits of the Case, and with the circumstances, which left him no alternative but to act as he has done.

A change in the Government occurs. Colonel Ballantine appeals against the decision of that of 1830; and after two years and eight months, demands enquiry.

Reasons why Government might have declined compliance with this request.

13. That a change in the Bombay Government occurring in March 1831, Colonel Ballantine, relinquishing his intention of proceeding to England, appealed in August following against the decision of the preceding Government; and, assuming the language and feelings of a deeply injured man, after a period of two years and eight months, called for investigation.

14. That it cannot be denied, that if Government had thought fit, it might have consistently and properly refused this request, because enquiry had once been ordered, when Colonel Ballantine himself prevented its taking place, by stating the probability of his going home; a declaration which induced the Government of 1830 to change its mode of proceeding.

A special Commission is granted, and the Memorialist ordered to act as public prosecutor.

15. That, nevertheless, in November 1831, a special Commission, consisting of Messrs. Lumsden and Pelly, of the Civil Service, and Captain Rankin, Paymaster of the Northern Division of the Army, were appointed to try the Case; and your Memorialist was peremptorily required* to officiate at the trial as Prosecutor on the part of Government.

Remark upon being required to substantiate Charges three years after they were advanced.

16. That, considering the lengthened period (three years) which had elapsed since your Memorialist had advanced the Charges, Your Honourable Court will easily imagine that such a call was far from agreeable to him. It is not necessary to go into detail, to shew that a person who undertakes, at the present moment, to prove certain Charges against another, can by no means be understood to engage to prove them at any distant period.

Memorialist undertakes the office assigned to him without demur.

17. That, nevertheless, feeling that it did not become your Memorialist, having advanced the Charges, to shrink from the task of proving them, (more especially as Colonel Ballantine now began loudly to declare, that he desired nothing so much as a full and impartial investigation), and being moreover exceedingly anxious that his own conduct should undergo the test which such an enquiry would afford, and that the secret slanders and calumnious imputations, industriously circulated by the accused against him, should be put to silence, your Memorialist made no sort of objection to the duty imposed upon him, with a full reliance that he would receive "the just† support of Government" in discharging it.

Honourable Court's attention solicited to the proceedings of the Commission, and to Colonel Ballantine's conduct before it.

18. That the Commission accordingly opened at Ahmedabad on the 17th of December, 1831; and your Memorialist earnestly entreats Your Honourable Court to peruse, with the greatest care and attention, the proceedings of the Commission, and to decide from that perusal, whether its enquiries were not conducted in a spirit and manner most patient and impartial. That he further entreats Your Honourable Court to examine from these proceedings, whether Colonel Ballantine shewed that he felt and acted upon that anxious desire for full and complete investigation, which he assumed in his Appeal against the decision of the Government of 1830; or whether, with the aid of a Barrister‡ of His Majesty's Supreme Court, he did not oppose every legal difficulty against eliciting the truth; thereby converting the Court appointed to try the Charges against him, from one of equity and honour (the only Court applicable to his case, on the supposition of innocence), into one of strict law and special pleading.

* Letter from Government, dated 5th November, 1831.

† Letter to Government, dated 17th November, 1831.

‡ A. Le Messurier, Esq., since appointed Advocate General at Bombay.

19. That the Commission, after sitting one hundred and seventeen days, of which thirty-eight were occupied by the prosecution, forty-six by the defence, and thirty-three in adjournments, broke up, in consequence of the refusal of Colonel Ballantine to give in writing a request to the mercantile Firm of Soonderjee Sewjee to produce their account books ; which Hunsraj, one of the members of that Firm, acknowledged to contain matters relative to the realization of the Mahee Caunta Tribute. That this partner of the Firm further stated, that he would comply with this request if it proceeded from Colonel Ballantine, but not otherwise ; and it must be obvious, compliance on his part could not have been optional, since the Firm could not have refused the production of their books, at the request of a person whose accounts they admitted the books to contain, for the purpose of elucidating those accounts.

Commission, after sitting one hundred and seventeen days, close the enquiry ; because Colonel Ballantine refused to grant authority for the production of certain accounts, proved to relate to his official transactions in the Mahee Caunta.

20. That an examination of the Commission's proceedings will satisfy Your Honourable Court, that a very intimate connexion was proved to have existed between Colonel Ballantine and the Firm of Soonderjee Sewjee ;—that the Mahee Caunta Tribute was, in the first instance, deposited with the Firm, and subsequently disbursed according to Colonel Ballantine's orders ;—that in a Pamphlet Colonel Ballantine has thought fit to publish, he acknowledges that they are his private bankers ;—that Nanjee Jewraz, the Government Native Agent of the Mahee Caunta Agency, was likewise the Manager of their Branch Bank at Sadra during the whole period of Colonel Ballantine's agency ;—that some of the agency account books, instead of being transferred to his successor when he left Gujerat, were deposited by Colonel Ballantine with an agent of the Firm, named Luckmeedass ;—and, lastly, that the material fact of Nanjee's employment by the Firm, and, in short, all public connexion with them, was peremptorily denied by Colonel Ballantine, who moreover endeavoured to raise legal objections to the partners being interrogated on the matters at issue between him and Government.

Facts, shewing the intimate connexion which existed between Colonel Ballantine and the Firm to whom these accounts belonged.

21. That, in order to stimulate Colonel Ballantine to grant the permission required by Hunsraj for the production of the books adverted to, your Memorialist tendered to the Commission for record a Memorandum* of facts, which, from information he had received, he believes these books would have established against Colonel Ballantine.

Memorandum recorded by the Prosecutor, to stimulate Colonel Ballantine to authorize their production.

22. That this Memorandum was read out in open Court ; but on an objection being raised by the Defence against it being received, it was withdrawn, and afterwards embodied in the Prosecutor's reply to the Defence on the fourth Charge. That, notwithstanding the condemnatory nature of this document, it produced no effect whatever on Colonel Ballantine : he persevered in his resolution to withhold the required permission for the production of the books ; thereby undeniably proving† “ that there is something in them which he is afraid to shew.”

Colonel Ballantine, notwithstanding, declines to grant authority.

23. That in consequence of this refusal, the Commission, on the 12th of April, 1832, determined to close the enquiry, after Colonel Ballantine's Defence had continued forty days, conceiving this refusal to adduce important evidence so attainable, as conclusive against him. That although this resolution was highly detrimental to the Case of the prosecution, inasmuch as it operated as a bar to the production of evidence in refutation of that which had been adduced by the Defence, your Memorialist did not feel himself justified, in his capacity of public Prosecutor, to oppose the proceeding, because he was aware that the Commission had been empowered by Government‡ to

Reason why the Prosecutor did not object to the closing of the enquiry, although highly detrimental to the prosecution.

* Appendix K.

† Government Letter to Colonel Ballantine, dated 8th March, 1834.

‡ Vide Instructions issued to the Commission.

exercise a sound discretion, that the ends of justice might be obtained; and to close proceedings when they thought the matters at issue fully and fairly enquired into; to investigate and decide, and then to report their judgment to Government.

Colonel Ballantine appeals against the Commission. The latter are admonished by Government, and ultimately re-open.

24. That Colonel Ballantine, concealing* the cause which had induced the Commission to close the enquiry, appealed to Government against it. That on this *ex-parte* statement Government admonished the Commission. That the Commission, in consequence of this communication, after having explained the grounds of their proceedings to Government, on the 7th of June, 1832, re-opened, and called upon Colonel Ballantine to continue his Defence.

Colonel Ballantine refuses to attend, although warned by Government that such refusal would originate surmises adverse to his cause.

25. That although Colonel Ballantine was advised† by Government, that “in withholding his consent to resume his Defence, he was proceeding on legal difficulties ill suited to the nature of the enquiry,” and that if really desirous of having the whole matter thoroughly sifted, he could not interpose these difficulties to a complete investigation, without giving ground for surmises very adverse to his cause‡, he nevertheless persevered in his determination to decline further attendance on the Commission.

Remark on this part of the Case.

26. That your Memorialist humbly submits, that even admitting the Commission were wrong in treating Colonel Ballantine, for the cause above assigned, as one allowing judgment to go by default, after a fruitless, evasive, and dishonourable defence of forty days, the error was fully repaired by the voluntary offer on its part to re-open the enquiry; and further, that Colonel Ballantine's subsequent conduct rendered it quite clear that his professional Counsel believed his Case to be of such a nature, that he would derive greater benefit by an opportunity of inveighing against his Judges, than he would by producing the evidence, both oral and documentary, to which, in his letter to Government appealing against them, he wished it to be believed great consequence attached.

Colonel Ballantine in his appeal to Government alluded to documentary evidence, but has never produced it.

27. That Colonel Ballantine has utterly falsified this assertion, respecting the documentary evidence he had to produce, by never having furnished any documentary evidence of importance to Government; for if he had, Government never could have failed to allude to such in its final decision on the proceedings.

No further enquiry was called for. If any was instituted, it should have been in communication with the Memorialist.

28. That, under the circumstances above recited, no act of the Commission rendered further enquiry indispensable or necessary; but, at all events, in case any were instituted, every principle of justice demanded that it should be held with the knowledge of, and in communication with, your Memorialist.

Commission find Colonel Ballantine guilty of all the Charges, and declare him a public defaulter to the extent of one lack of rupees and upwards. It therefore confirmed, as just, the decision of the Government of 1830.

29. That about the beginning of August 1832, the Commission made their Report, and unanimously found Colonel Ballantine guilty § of all the Charges your Memorialist had preferred against him, and considered that he had been legally proved to have been a public defaulter when he left Gujerat, in March 1828, to the extent of one lack of rupees and upwards. That the decision of the Commission, therefore, entirely confirmed the justice of the decision of the Government of 1830; the Charges investigated by the Commission, though different in form, being in

* Letter to Government, dated 10th April, 1832.

† Letter to the Commission, dated 20th July, 1832, communicated by order to Colonel Ballantine.

‡ Letter to the Commission, dated 30th July, 1832. § Vide Letters of Government, dated the 8th of March, 1834.

substance the same as those contained in the letter of Government to your Memorialist, cited in the 8th paragraph of his Memorial.

30. That your Memorialist earnestly solicits the attention of Your Honourable Court to the Report of the Commission who conducted the enquiry, whose competency and experience is undisputed, and whose fairness and impartiality was acknowledged* by Colonel Ballantine on the 27th of February, 1832, the seventy-first day of its sitting.

Attention to the Commission's Report solicited;

31. That your Memorialist further begs leave to solicit the attention of Your Honourable Court to a Precis† which he drew up and submitted to Government, with a request that it might be transmitted for your consideration, of the principal facts proved before the Commission at Ahmedabad, with references to the sources from whence they are proved, and likewise embracing a refutation of the chief arguments resorted to by Colonel Ballantine in his Defence. That the principal reason which induced your Memorialist to take the trouble of compiling this paper, was the expectation that it might aid superior authority in forming its judgment upon the important matters under discussion, and diminish the intricacy and confusion in which the Case has become involved, in consequence of the lengthened period it embraces, and the voluminous mass of documents that must be attentively considered, before correct conclusions can be formed respecting it. That, as a secondary object, this document is intended as a full and complete vindication, in the eyes of Your Honourable Court, from the calumnious aspersions to which your Memorialist has been subjected in the course of these proceedings.

and to a digest of the Case compiled by the Memorialist;

32. That your Memorialist being, however, deeply impressed with a conviction of the serious nature of this Case; and considering himself highly aggrieved by the unmerited censure and reproach which has been cast upon him by Government; and being convinced how much the final decision of Your Honourable Court must affect the future purity of your Administration in India, if such undeserved censure is not cancelled—(for who, in such a case, can hereafter be expected to denounce a public delinquent?)—annexes, in the Appendix‡, a brief Summary of the principal Facts, and Arguments to be deduced from them, legally proved against Colonel Ballantine before the Commission, and during the subsequent proceedings of Government.

and to a more condensed Summary, annexed as Appendix A.

33. That, in continuation of these proceedings, your Memorialist further begs leave to represent to Your Honourable Court, that Colonel Ballantine, after having refused to obey the summons he received on the 7th of June, 1832, to reattend the Commission, addressed Government in terms, he has reason§ to believe, of recrimination, and violent invective and abuse against his Judges, and against your Memorialist. That this *ex-parte* statement was received and recorded by Government, without having been previously sent to the parties reflected upon, to afford them the opportunity of reply and explanation, if such were required. That your Memorialist preferred a respectful application to Government, to be furnished with copy of the above communication,

Government receive and record accusations from Colonel Ballantine against the Commission and the Memorialist. Refuse a copy to the latter, who protests against the proceeding.

* Vide Exhibit 82. C. P. "Permit me to thank you for the patient consideration you have already given, without interruption of me either in the course of my cross-examination of the Prosecutor's witnesses, or in objections I have made to the evidence proposed to be adduced; the readiness with which all my requests have been complied with for papers and documents. (Signed) F. D. BALLANTINE, Colonel." It is also to be observed that Colonel Ballantine, in a letter to Government, dated 15th November, 1831, admitted that the Members of the Commission were "competent, most upright, and unobjectionable persons," except that they had never been employed in the Political Department.

† Forwarded in a letter to Government, dated 10th October, 1833.

‡ Vide Appendix A.

§ Vide Government letter to Colonel Ballantine, dated 8th March, 1834; and the correspondence between Colonel Ballantine and the Commission, from April to July, 1832.

and of any other correspondence with Colonel Ballantine, affecting the Charges so patiently investigated by the Commission at Ahmedabad. That this request, so reasonable in its nature, was, without any regard to the feelings of your Memorialist, negatived. That your Memorialist humbly submits, that the receiving a convicted person's report upon his Judges, and forwarding accusations to Your Honourable Court against your Memorialist, without in either case affording full opportunity of reply, must be deemed opposed to the first principles of justice and usage applicable to such cases.

Inconvenience and
expence to which the
Memorialist has been
exposed.

34. That on the 5th of October, 1832, the Commission was dissolved, and your Memorialist, after an absence of ten months from his family, under orders of Government, returned to his Station. That when, in November 1831, he was directed to proceed to Ahmedabad, he was at Porebunder, about two hundred and fifty miles from that City. His family at the time, being afflicted with severe sickness, were unable to accompany him; and consequently he had no alternative but, at a large expence, to send them to the Presidency. That in April 1832, expecting to be discharged from further attendance on the Commission, your Memorialist applied to Government for permission to proceed to Bombay, for the purpose of adopting measures of vindication from charges of a very serious nature which Colonel Ballantine had published and circulated against him. That in a letter*, addressed to the Right Honourable the Governor, your Memorialist further explained, that his object in seeking this leave of absence, was likewise to rejoin his family, and to re-establish his own health, which had materially suffered from the severe and unremitting labours he had undergone during the six preceding months. That under such circumstances, coupled with the fact that, during fourteen years' residence in India, he had only twice obtained the indulgence applied for, your Memorialist never contemplated the possibility of refusal; and having been discharged by the Commission, he was induced, in consequence of the near approach of the Monsoon, to anticipate sanction, reporting having done so to Government. That his attempt, however, to reach the Presidency was frustrated by contrary winds; and while at the port of embarkation, your Memorialist received a negative to his application, on the grounds that the Public Service† required his presence in Kattywar; and soon after, an uncourteous letter of censure, for having presumed to anticipate that leave would be granted. About this time your Memorialist became seriously indisposed, and was in consequence prevented from immediately returning, as directed, to Ahmedabad. That your Memorialist is conscious that there is no one among your Servants who is more ready than himself cheerfully to sacrifice his own personal comfort and convenience, whenever such is required, for the good of the Public Service; and can appeal with confidence to the public records to support his assertion. That on the occasion referred to, however, he had not the satisfaction of feeling that, for the reason assigned, any such sacrifice was required, since from May until the middle of October 1832, he was detained at Ahmedabad, and a considerable portion of the period, after it had become known that his further services there might be dispensed with, without any occupation whatever, and without any public duties being assigned to him.

Commission dissolved.
Government refer to
Mr. Williams to re-
port upon the claims
against Colonel Ballan-
tine. Mr. Williams re-
fers to the Memorialist,
who declines to furnish
the information re-
quired of him. Rea-
sons for thus declining.

35. That on the date of the dissolution of the Ahmedabad Commission, the Political Commissioner for Gujerat (who had been himself under examination before the Commission for several days) was required by Government to ascertain "what are the demands of the Guicawar on "Colonel Ballantine, and to report" who are the Petitioners who have any claim on "that Officer, "together with the amount claimed by each." That the Political Commissioner called upon your Memorialist to supply the information required, which he declined to do—1st, because not having

* Vide letter to Government, dated 25th May, 1832.

† Letter from Government, dated 21st April, 1832.

been advised of the result of the ten months' investigation at Ahmedabad, he was in doubt whether he would be held to be a proper person to supply it.—2d, because he felt quite confident of his inability to furnish any information in addition to what he had already recorded on the Commission's proceedings. That the Political Commissioner, in reply to the reference, therefore could merely recapitulate the various claims existing against Colonel Ballantine, investigated by the Commission, and alluded also to various demands made against him, to the amount of 70,000 Rupees, by the Rajah of Edur, the Chief of the Mahee Caunta Tributaries.

36. That the claim of the Rajah of Edur was preferred to your Memorialist in 1829, a short time before he was appointed* to officiate as Secretary to Government, on which occasion it was brought under the special notice of his successor. That his successor was directed to examine and report upon it; and, neglecting to do so, was severely censured by the Government of 1830. That when your Memorialist was directed to frame charges against Colonel Ballantine, he referred† to Government for instructions as to whether the complaints of the Rajah of Edur should be embraced in the Prosecution, and was informed in reply‡ that “if, from any documents, or other sources of information, he became acquainted with subjects of complaint against Colonel Ballantine, not included in his letters of September and December 1828, which he thought should be investigated, he was to lay them before the Political Commissioner for Gujerat, that the directions of Government may be obtained.”

Memorialist brings forward a charge of embezzlement, preferred by the Rajah of Edur against Colonel Ballantine.

37. That under these instructions, on the 20th February, 1832, your Memorialist preferred a charge against Colonel Ballantine, on behalf of the Rajah of Edur, setting forth, that he had received, and not accounted for, the sum of 14,364 Rupees, of Revenue belonging to Edur, which had been specifically guaranteed by the British Government to be paid to certain Bankers residing on the spot, and who corroborated the Rajah's complaint, by petitioning for payment of the money in question. That in consequence of the Rajah of Edur's disinclination to attend a Court of Justice for the purpose of substantiating his demands, your Memorialist did not consider it advisable to recommend that all of them should be made the subject of judicial investigation. That your Memorialist earnestly solicits the attention of Your Honourable Court to his letter, preferring the charge above recited, from which it will be seen that the receipt of an unspecified amount of money, already appropriated under the guarantee of the British Government, could have been proved by a letter under Colonel Ballantine's own signature, while the amount so misappropriated, could have been proved by the evidence of the Carcoon who sent the money from Edur to Sadra. That this charge, which not only involved peculation, but likewise a serious breach of the faith of Government, and extorting from the Rajah a release, without payment of the money alleged to have been embezzled, was not sustained§; and the recommendation of the Political Commissioner, that Colonel Ballantine should be required to explain how the money had been appropriated, was not even attended to. That your Memorialist is uninformed how the Rajah's claim has been disposed of; but he considers that the matter not being enquired into, must be regarded as one of those instances of favour towards Colonel Ballantine with which the proceedings in his Case abound, and of which he conceives he has great reason to complain, and to bring to the notice of Your Honourable Court.

It is not sustained by Government. Undue favour towards Colonel Ballantine.

* Vis. in October, 1829.

† Letter to Government, dated the 17th November, 1831.

‡ Letter from Government, dated 1st December, 1831.

§ Vide Political Commissioner's Letter to Mr. Secretary Williamson, dated 29th February, 1832.

Government order a direct reference to be made to His Highness the Guicawar. The Memorialist protests against it.

38. That, in reply to the Political Commissioner's Report upon the amount of claims existing against Colonel Ballantine, he was informed that he had mistaken the directions issued to him on the 5th of October, 1832, which were, to ascertain from the Guicawar what he himself considered he was entitled to, on account of the collections made in the Mahee Caunta by Colonel Ballantine; and Lieutenant Colonel Burford was now directed to submit a question framed by Government, for the purpose of eliciting this information. That your Memorialist solicits the attention of Your Honourable Court to his letter to Government, dated the 26th of July, 1833, shewing that the Guicawar, not knowing what Colonel Ballantine had collected, could not afford a satisfactory answer to the reference made to him; and, as might have been anticipated, "no conclusive information on the question generally of Colonel Ballantine's accounts was acquired"* by this means, or by Colonel Ballantine being subsequently sent himself to Baroda, to negotiate with the Guicawar a settlement of his accounts.

Objections, attaching to the above proceeding, pointed out.

39. That your Memorialist humbly submits, that the above proceeding, the first of a series adopted by Government, in disregard to the patient and laborious enquiry conducted at a large expence† at Ahmedabad, and seriously affecting the Charges against Colonel Ballantine, was extremely objectionable in principle, and unfair towards your Memorialist, after Government had thought fit to exact from him the responsibility of proving those Charges. These accusations having been entertained, and publicly investigated according to the strictest rules of law, it was not, he conceives, competent for the Government to adopt any proceedings from which the accuser was to be excluded.

The Guicawar appealed to by the Right Honourable the Governor, on the subject of the Seventh Charge against Colonel Ballantine, and answers in favour of the Prosecution.

40. That on a reference to the Commission's proceedings, Your Honourable Court will find that in April 1832, the Right Honourable the Governor being at Baroda, submitted, contrary to a declared resolution of the Government‡, certain interrogatories to His Highness the Guicawar, on behalf of Colonel Ballantine, regarding the object and intention of the Seerpao Grant, which forms the subject of the 7th Charge investigated by the Commission; and that His Highness's answers were in exact conformity to the public records under which the grant was obtained, and entirely confirmatory of the Case for the Prosecution.

Appealed to by Government a second time, and repeats his former answer.

41. That, notwithstanding this, Government, in January 1833, directed Lieutenant Colonel Burford again to ask His Highness "what he intended by the Grant of Seerpao—whether to enable "Colonel Ballantine to make presents generally, as was customary in most agencies? or whether "the grant was to be confined to persons paying revenue or tribute, and no other?" That to this second appeal, leading as the mode in which it was made must be considered, His Highness again answered from his records, in terms entirely supporting the Prosecution; though it must be familiar to Your Honourable Court, that, as in 1820, the British Government undertook to collect the Mahee Caunta Tribute free of all expence to the Guicawar, the grant never could have been applied for, to make presents generally, without a violation of a Treaty, under which the expence of such presents was thrown on the British Government.

* Government Letter to the Commission, dated 8th March, 1834. Paragraph 3.

† This, at the lowest computation, must have exceeded 30,000 Rupees.

‡ On the 25th November, 1831, Government informed Colonel Ballantine, that "it would be highly disrespectful to "the Guicawar, either to summon him as a witness, or to expose him to the indignity of answering written interrogatories; and a moment's reflection must convince you, that the request on this point submitted by you, cannot be granted." The Guicawar was nevertheless subjected by Government to this indignity—not once, but three times!!!

42. That, incredible almost as the fact may appear, the same question was a third time put to the Guicawar during Colonel Ballantine's visit to Baroda, when, as will be seen in the sequel, a verbal declaration, contradictory of the two previously made in writing, was given, and was made one of the principal grounds for absolving the Defendant on the 7th Charge.

Colonel Ballantine proceeds to Baroda: induces His Highness to make a verbal declaration on the same question, contrary to his two former answers in writing. The verbal answer is accepted, and made a ground of acquittal. The two written answers are not even alluded to.

43. That these proceedings are rendered the more extraordinary by the fact that, when Colonel Ballantine first proposed that questions should be put on his behalf to His Highness the Guicawar, the Government decided that it was not proper that His Highness should be interrogated * at all; consequently they are directly opposed to a declared resolution of the Government who adopted them.

Incredible fact—that Government first ruled that His Highness should not be interrogated on the subject at all.

44. That on the 8th of June, 1833, your Memorialist received an intimation from Government, that it had resolved "to submit to Mr. Borrodaile the question, as one of account, of the "sum which Colonel Ballantine should be called on to pay." That with this reference the proceedings of the Commission on the 4th Charge only were forwarded to Mr. Borrodaile, although he was required to report upon Colonel Ballantine's liabilities under all the Charges; and a voluminous mass of accounts which had been rejected by the Commission, either as fabricated or falsified, were sent to him to guide his judgment, as if they had been true and genuine accounts.

Government make Mr. Borrodaile a referee from the Commission.

45. That being sensible that an enquiry founded on instructions † like those issued to Mr. Borrodaile, and the defective information and impure evidence furnished as data for his report, could not be complete, but, on the contrary, that in all probability it would have a result more favourable to Colonel Ballantine than justice warranted, and consequently produce unjust impressions against your Memorialist, who had been compelled to become his accuser, and conceiving that the public interests might suffer to an unknown extent, your Memorialist felt it to be a duty he owed to Your Honourable Court and to himself, respectfully to object to the proceeding; and accordingly did so in a Letter to Government, dated the 28th of June, 1833.

Memorialist objects to this reference,

46. That your Memorialist earnestly solicits the attention of Your Honourable Court to his communication objecting to the proceeding, and contending against a principle apparently recognised in the fourth paragraph of the Instructions issued to Mr. Borrodaile, that it is not compulsory ‡ upon your servants to produce "the original accounts" of the situations they may fill; and that if they decline to do so, Government must rest satisfied with whatever accounts they may produce, even if (as in the case of those produced by Colonel Ballantine) they abound with erasures and interpolations, designedly made to conceal fraud and deception. That it is for Your Honourable Court to decide, on public grounds, whether a principle of this kind can be beneficially introduced; but he must take the liberty to state, that could he by any possibility have foreseen its application to the case of Colonel Ballantine, neither he, nor any one else, could have ventured to impeach the accounts of the Mahee Caunta Agency, palpably false and dishonest, as all now admit them to have been.

and contends against the principle, that it is not compulsory on the servants of Government to produce the "original accounts" of the situations they may fill;

47. That your Memorialist begs earnestly to press upon the attention of Your Honourable Court, the objectionable mode in which the reference to Mr. Borrodaile was made. The intimate connection existing between the Charges advanced by your Memorialist against Colonel Ballantine

and objects to the separation of the Charges against Colonel Ballantine.

* Letter to the Commission, dated 25th November, 1831.

† Vide Appendix N.

‡ Every person appointed to the Civil Service of the Honourable East India Company enters into a covenant "to keep regular accounts, to preserve and duly deliver over books and chattels, and to produce private accounts, in which there shall be any entry or memorandum whatsoever, touching any of the affairs or concerns of the said Company, without obliteration or concealment of any part, and notwithstanding they may not be the property of the said Company, &c. &c."

must be obvious, and consequently they could not with justice be separated. The three first, for instance, being proved, evince a premeditated design on the part of the accused to avoid personal communication with his successor, and to take away with him the proofs of guilt. In like manner, the four last are to be viewed as specific instances of the fourth Charge, the only one referred to Mr. Borrodaile. The Charges therefore could not with justice be separated, as they mutually depend on each other; and it would be most likely to happen, that some one or other particular part might depend for its proofs, wholly or partially, upon proofs afforded in other parts. In illustration of this remark, your Memorialist may observe, that many a man may have left his station with little more communication than Colonel Ballantine had with his successor; but when it is considered what accounts he left, what records he left, and what he took away, and continues to retain, no reasonable person can hesitate to believe that his departure from Gujerat, on the date the accounts bear, was a premeditated flight, to avoid detection. That the instructions to Mr. Borrodaile do not even apprize him, which of the accounts sent to him were acknowledged by Colonel Ballantine to be only copies, and which he stated were originals; and although such was not absolutely avowed, they go so far as to prevent the reporter from expressing an opinion respecting their authenticity. In fact, Government might just as well have invited Colonel Ballantine to frame any account he chose, and then to have called upon Mr. Borrodaile to report whether the debits and credits correspond. None of the Commission's opinions were communicated to Mr. Borrodaile, and the accuser was not present to sift, and expose, and point out the defects existing in the accounts. That your Memorialist, for these reasons, considers that the instructions of Government were calculated to bring about a result more favourable to the accused than justice warranted; and that if Government again thought fit to reverse the decision of the Government of 1830, now strengthened and confirmed by that of the Commission, and determined to make a further reference to any one, the Case as it then stood, documents, reports, and proceedings complete, should have been sent to the referee, and both the accused and accuser instructed to attend.

Protest of Memorialist disregarded.

48. That in reply to his objections to the reference to Mr. Borrodaile, your Memorialist was informed* by Government, that he had given himself unnecessary trouble; that his opinion on the measures pursued by Government was not asked; that his observations would not therefore be noticed; and that Government exceedingly regretted that he should feel himself interested in the issue of the enquiry, as it was the same to him "whether Colonel Ballantine was condemned to "pay one lack of rupees, or only one rupee."

Erroneous view taken by Government of his situation.

49. That your Memorialist submits that Government, in the above communication, took a very erroneous view of his situation, and one directly opposed to the principle acted upon by itself, in insisting that he should become Colonel Ballantine's prosecutor. He considers that, when a public servant has advanced grave charges against another, and Government has called upon the first to prove them, a challenge which, without a moment's hesitation, he accepts, it is thenceforward not competent for the Government to order or conduct any investigation into such matters without the full knowledge, and in the presence, of both parties; for both are implicated in the result, although in a different way. It must be obvious that in these cases the accused cannot be justly acquitted, without having been unjustly accused; and consequently justice towards the accuser demands that he should have every opportunity of exposing and falsifying the evidence on which the accused is acquitted. That the case of Colonel Ballantine is not simply one where Government entertained suspicions against a public servant, and thereupon adopted its own course

* Letter from Government, dated 27th August, 1833.

for investigating them. Circumstances over which he had no controul, had placed your Memorialist in the invidious light of an accuser. Government had imperatively called upon him to substantiate charges three years after they had been advanced; and consequently had no more right to make any enquiry likely to affect the decision on them without him, than they had to do so without Colonel Ballantine. That the recriminatory nature of Colonel Ballantine's Defence rendered this deviation from general principles and usage in this case peculiarly unfair towards your Memorialist; because his own reputation and honour were involved in the result.

50. That, notwithstanding the peculiarly favourable manner (as far as his interests were concerned) in which the reference to Mr. Borrodaile was made, Colonel Ballantine objected to the proceeding, and "solemnly protested against any further examination of his accounts taking place, "either before Mr. Borrodaile, or any other person whatever, except the Guicawar himself."* That your Memorialist cannot therefore refrain from remarking, that the Commission, having examined what accounts Colonel Ballantine chose to produce, and passed an award—and Colonel Ballantine having been called upon "for the last time" to produce fresh accounts, and declined to do so—every one must admit that such a man is at once liable to all that has been found against him. That Government, nevertheless, still adhered to its determination to refer his accounts to Mr. Borrodaile.

Colonel Ballantine protests against the reference to Mr. Borrodaile, and against his accounts being examined by any one but the Guicawar.

51. That the above proceeding was adopted when His Excellency, the Commander in Chief, and the Honourable W. Newnham were absent from the Presidency; which enables your Memorialist to state, that it was the act of the President and one Member of Government only, and not of the Government complete, like that which passed the decision of 1830, referred to in the eighth paragraph of this Memorial.

The Government who made the reference to Mr. Borrodaile, was incomplete.

52. That your Memorialist has not been furnished, as he thinks he ought to have been, with copy of Mr. Borrodaile's report; but has heard that it is highly condemnatory of Colonel Ballantine, and that the amount adjudged against him, as due to Government, exceeds one lack of rupees. That, in short, the report of Mr. Borrodaile entirely confirms the justice of the decision of the Government of 1830, and of that of the Commission from whose verdict he was made the referee. That this result is decisive of the glaring nature of the case against Colonel Ballantine;—but Your Honourable Court will be surprised in the sequel to find, that though the final judgment is, after all, at least as unfavourable as the first to Colonel Ballantine's character, as a man of honour and honesty, the three awards above adverted to, have all been modified to the Defendant's advantage by the present Government.

Mr. Borrodaile's report confirms the justice of the decisions of the Government of 1830, and of the Commission.

53. That soon after the reference to Mr. Borrodaile had been communicated to him, your Memorialist learned by common report that Colonel Ballantine was at Baroda, negotiating a release from the Guicawar of the demands against him, as Agent in the Mahee Caunta on the part of the British Government.

Memorialist learns by report that Colonel Ballantine is at Baroda, negotiating a settlement of his accounts with the Guicawar.

54. That never imagining that Government, after having called upon your Memorialist to prosecute Colonel Ballantine, would deem it proper to adopt measures independent of him, and without his knowledge, he felt it to be his duty to communicate this report to Government †; and, in requesting to be advised of any proceedings in progress, urged that, "as the person compelled to

Solicits information on the subject from Government.

* Letter to Government, dated 16th June, 1833.

† Appendix E.

“conduct the prosecution against Colonel Ballantine, any proceedings connected with the Charges against him should, in due regard to the interests of Government, and the cause of justice, be communicated to him.”

Supporting his application by referring to certain occurrences at Baroda in March 1826.

55. That, in support of this application, your Memorialist referred to certain occurrences at Baroda in March 1826, strongly inclining him to the belief that Colonel Ballantine, by a personal negotiation with the Guicawar, might obtain from that Prince a release, without having effected a *bonâ fide* settlement of the just demands existing against the British Government, as the Collector of the Mahee Caunta Tribute.

On which he grounded a charge against Col. Ballantine, which, though not entertained by Government, was proved before the Commission by Colonel Ballantine himself.

56. That Your Honourable Court will find that your Memorialist, on the 20th of November, 1831, made these occurrences a matter of charge against Colonel Ballantine; that the charge he submitted to Government was referred to, and the information on which it was founded was corroborated by, Mr. Williams; that Government declined to entertain the charge, or to permit * him to substantiate it before the Commission; but that with an infatuation, the usual accompaniment of guilt, Colonel Ballantine himself proved the circumstances on which the charge was founded, by the evidence of one of his own witnesses, Captain D. W. Shaw, of the 20th Regiment N. I.

Observations respecting Colonel Ballantine's mission to Baroda.

57. That your Memorialist requests the attention of Your Honourable Court to his correspondence with Government on the above subject; and with deference submits that the mission to Baroda of Colonel Ballantine, to settle his accounts with the Guicawar, in the absence too of any British Representative at His Highness's Court acquainted with the Mahee Caunta transactions, was most objectionable and unsafe, as far as the public interests were concerned, and most unfair to your Memorialist. It was directly opposed, too, to the Resolutions of Government, that Colonel Ballantine should not settle his accounts with the Guicawar, in answer to his repeated applications, for very obvious reasons, to be allowed to do so. It was all this, supposing that the Guicawar knew what the demands of his Government were on Colonel Ballantine, or rather the British Government; and your Memorialist will leave Your Honourable Court to determine what it was besides, when he informs you, as he will subsequently shew, that the Guicawar *did not know* what his demands were, no accounts of Colonel Ballantine's extra receipts, or miscellaneous collections, such as Mohsullee and Interest, &c., and no statement of the Tribute and Revenue Collections for 1827-28, which comprised the whole of the demands in question, being before His Highness; and that the Government was quite aware† of these facts.

The reply of Government takes no notice of the Memorialist's request, and does not allude to the fact that the mission was under its order.

58. That the Government reply to the communication of your Memorialist on this subject took no notice whatever of his request to be furnished with any proceedings in progress, and made no allusion whatever to the fact, that Colonel Ballantine's mission to Baroda had been undertaken under its own instructions.

How the Memorialist learned this fact.

59. That this fact came to his knowledge by Colonel Ballantine having himself stated, in his Letter of Protest against the reference to Mr. Borrodaile, that on the 18th of April, 1833, Government had directed him “to proceed as soon as possible to Baroda, and, with the assistance of “Lieut. Colonel Burford, to settle, if possible, his accounts with His Highness the Guicawar.”

* Appendix F.

† *Viz.* from Mr. Williams's Letter to Government, dated the 3d November, 1832, more than five months previous to Colonel Ballantine's mission to Baroda.

60. That immediately on the receipt of this intelligence, your Memorialist strongly protested against the proceeding; and he earnestly solicits the attention of Your Honourable Court to his letter to Government* on the subject, shewing—1st. That His Highness the Guicawar was not himself aware of the actual demands existing against Colonel Ballantine.—2d. That when Colonel Ballantine protested against the reference to Mr. Borrodaile, he admitted that he had not had sufficient candour to inform the Guicawar either of the nature or the amount of these demands.—3d. That the intervention of Lieut. Colonel Burford in the negotiation was calculated to favour, rather than oppose, a settlement more advantageous to Colonel Ballantine's interests than was consistent with justice, or the reputation of the British Government, since that Officer was not even informed of the extent and nature of the demands to be adjusted.—4th. Various reasons which would influence the Guicawar to yield to a political negotiation, some of the just demands existing against the British Government, the Collector of his Tribute.—5th. That an acquittance granted under such circumstances to the Agent (Colonel Ballantine), could, neither in law nor equity, be considered as a release to the Principal (the British Government) from the performance of the conditions of the Treaty under which it undertook to realize the Mahee Caunta Tribute.

Enters his protest against it. Reason for protesting.

61. That, in conclusion, your Memorialist expressed his sincere regret that it had not occurred to Government to adopt the measure of sending Colonel Ballantine to Baroda before a special Commission had been convened at Ahmedabad, “to investigate, and decide, and report their judgment” on the Charges advanced against him. In this case he observed, “a great public exposure might have been avoided; a large expence to Government saved; expectations on the part of the Mahee Caunta Tributaries, now difficult to satisfy, would not have been excited; and an odious task, almost too irksome and laborious for one person to perform, would not have been imposed” upon your Memorialist.

It under any circumstances it could have been justified, it should have preceded the appointment of the special Commission.

62. That Your Memorialist received no reply whatever from Government to the above communication. That he humbly submits, that neither himself, when accusing Colonel Ballantine, nor the Government, when entertaining his accusations, ever dreamt that His Highness the Guicawar was to be deemed competent to decide upon them. Had your Memorialist done so, he never would have advanced them; and that the Government never did so, is proved by their having repeatedly resisted the absurd doctrine set up by Colonel Ballantine, that he was merely accountable to the Guicawar alone, informing † him, on the contrary, that even if His Highness gave him a receipt for every rupee due to him, “he, as a British Officer, was bound to give a satisfactory account of the mode in which he conducted his business in the Mahee Caunta, to the Government which employed him in a high political situation.”

Government give no answer to this protest

63. That if, in 1828, when Government first heard from your Memorialist on the subject of the Mahee Caunta Accounts, it had chosen to decline examining them, he is quite aware that it had a perfect right to do so: the servant and the loss were their's, and no one except Your Honourable Court could have had any right to object. But after it had called upon your Memorialist to prove his Charges—after the notoriety occasioned by a public enquiry of six months' duration—after he had been exposed to prodigious trouble and obloquy in proving them—after the accused, instead of defending himself, had done nothing but heap unmerited abuse upon him, and had circulated the basest slanders against him—your Memorialist is bound to contend against the right of Government to abandon the enquiry. That, in consequence of this scandalous recrimi-

Memorialist contends against the right of Government to adopt such a mode of settling Colonel Ballantine's accounts, after requiring him to substantiate his Charges.

* Appendix G.

† Letter of Government to Colonel Ballantine, dated the 5th July, 1833.

nation against your Memorialist, he considers himself entitled to solicit from Your Honourable Court, that the question of Colonel Ballantine's innocence or guilt shall be fairly and impartially considered, and determined upon the result of the strictly judicial enquiry conducted at Ahmedabad; and that it shall be unaffected by the *ex-parte* and *extra-judicial* proceedings afterwards held at Baroda.

Government deviate from the ordinary rules of evidence and justice in its decision on the seventh of the Charges preferred by the Memorialist.

64. That, notwithstanding the forcible objections attaching to the above mission, and in opposition to the facts recited in the thirty-ninth and fortieth paragraphs of this Memorial, Your Honourable Court will find that the present Government has acquitted Colonel Ballantine on the seventh Charge, and that the Mahee Caunta Tributaries have been in consequence deprived of the sum of Rupees 61,640, which they ought to have received from the British Government, principally on the strength of a *verbal declaration* which the Guicawar is alleged to have made, respecting the object and intention of the Scerpao Grant, directly opposed to the public records under which it was negotiated, and the *written answers* of His Highness, twice previously recorded, to the same question. That your Memorialist is able to shew that, independent of the above objections, so fatal to a verdict thus founded, the verbal declaration of His Highness is directly opposed to, and at variance with, Colonel Ballantine's defence; and further, that during his mission to Baroda, Colonel Ballantine was guilty of conduct highly derogatory to his own character, and to the reputation of the British Government. In view, however, to preserve order in the narrative, these proceedings will hereafter be adverted to.

Memorialist receives the decision of the Government of 1834; and for his reward is severely reprimanded by Government, and informed that he has been the occasion of the inconvenience entailed on Government and the Service, by the enquiry into Colonel Ballantine's conduct.

65. That, in March 1834, your Memorialist received the decision of the present Government on Colonel Ballantine's Case; and with astonishment, and feelings of the deepest mortification, at the same time received a letter from Government, which, instead of conveying to him thanks and approbation for all the labour and anxiety he had been exposed to, censured him in terms of unmeasured severity, and characterized him as an idle and inefficient servant of the East India Company. That, not content with this, the letter addressed on the same occasion to the Ahmedabad Commission taunted your Memorialist with having, by his culpable and inexcusable negligence, been the cause "of the inconvenience entailed upon Government and the Service, by the investigation "of Charges against Colonel Ballantine, for offences alleged to have been committed ten years "ago." That, in short, your Memorialist was mortified to find that the decision of the Government of 1830, the decision of the Ahmedabad Commission, and the decision of Mr. Borrodaile, were all unhesitatingly contemned and abandoned; and that the Government* of 1834, maintaining and acting upon the extraordinary principle, that the *official negligence* of one servant excuses or palliates the *actual dishonesty* of another, had resolved to make the alleged neglect of the Resident at Baroda, and of your Memorialist, the shield and palliative of as corrupt and dishonest an administration of an high political situation as was ever brought to light.

Feelings with which the Memorialist approaches this part of the subject.

66. That your Memorialist approaches this part of the subject under the deepest anxiety, lest, from the excited state of his feelings, naturally occasioned by such unmerited obloquy and reproach being passed upon him, he should be unable to command himself, and fail to describe

* In speaking of the decision of the Government of 1834, it is satisfactory to the Memorialist to know, that, contrary to those of the Government of 1830, and the Commission, it was not founded on the unanimous opinion of the Board; as he has reason to believe that the result of the proceedings of the Ahmedabad Commission tended rather to confirm than weaken, in the mind of one of the Members of Government, the decision passed by the Government in 1830, of which he was also a Member. It is also to be remarked, that when this decision was pronounced, there was no Commander in Chief a Member of the Bombay Government.

his grievances to Your Honourable Court in those terms of temperate moderation he has prescribed to himself, as due to the high authority against whom he is appealing.

67. That on the receipt of the above communication, your Memorialist immediately intimated his intention * to vindicate his official character from the severe reflections cast upon it by Government, under circumstances of such deep humiliation ; but in consequence of absence on duty from Rajcote, he was prevented from doing so before the 10th of August, 1834. That, for the convenience of reference, he has appended † copy of his letter of justification to his Memorial.

He vindicates and defends his official character

68. That your Memorialist most earnestly entreats the attentive consideration of Your Honourable Court to this vindication; in which Your Honourable Court will find that he repelled the general charge of remissness and neglect of duty, by producing from the public records a mass of the most flattering testimonials of approbation he obtained from the Governments of the Honourable Mountstuart Elphinstone, and the late Sir John Malcolm, during the identical periods, and on the very points and duties to which the censure of the present Government applies. That with respect to the four specific instances of neglect imputed to him, he proved, in regard to the first, that he actually did what he was censured for having left undone ; that, in regard to the second, he did all that he was directed to do by the Government of the time being, and all that was required by the rules and customs of the Service, applicable to men of integrity ; that, in regard to the third, he was wholly and entirely ignorant of what he was censured for having permitted to take place ; and that to the fourth alone was he obliged to plead guilty ; his neglect in this instance being, that, when occasionally officiating for the Resident at Baroda, he failed to require from Colonel Ballantine certain accounts which he had been ordered direct by Government, and had bound himself by a solemn oath, to keep.

by a mass of praise from former Governments, on the very points, and at the very periods, embraced in the present censure.

69. That on the 8th of March, 1834, your Memorialist was censured by Government “for suffering the Scerpao Grant to be disbursed in the way it was, without any enquiry made, or account demanded, by Colonel Ballantine’s superior Officers;” but on the 12th of September, 1834, Government acknowledged that neither the Resident at Baroda nor your Memorialist knew any thing of the alleged misappropriation until the circumstance was reported to Government. That, notwithstanding this acknowledgment, which must be considered tantamount to an admission that your Memorialist could not deserve this portion of the animadversions of Government, it has not been recalled, but still remains recorded against him. That your Memorialist humbly submits, that the reply of Government to his letter of justification, incorrectly designates it a defence “of his conduct in regard to the proceedings adopted against Colonel Ballantine;” when, in fact, it is a vindication from the undeserved censure with which, at the end of those proceedings, your Memorialist was visited. Your Memorialist is charged with remissness and neglect of duty:— he has made a defence, which he is bold to say every unprejudiced man will declare to be convincing and satisfactory. The charge is not withdrawn, or even qualified ; and your Memorialist confidently relies on the justice of Your Honourable Court to consider that defence, and upon it to cancel the charge.

Contradiction in the letters of Government pointed out.

70. That your Memorialist naturally expected that his complete refutation of the *retrospective* censure of Government, entirely drawn from its own records, would have constrained Government, in common justice to him, unreservedly and explicitly to have cancelled that censure. That in

His vindication produces no effect. The Honourable Court requested to review his proceedings, and to consider the effects likely to ensue from so unjust a requital of his services.

* Letter to Government, dated the 21st March, 1834.

† Appendix B.

this expectation your Memorialist having been disappointed, it is incumbent on him to solicit that Your Honourable Court will be pleased to review his proceedings in this Case, from first to last, and decide, from the result, whether he has received a just requital for the zeal and single-heartedness with which he has endeavoured to fulfil his covenant, to serve the East India Company with integrity; and whether, after the treatment he has received, any of your Servants can be expected to denounce "a series * of malversation long persisted in, proceeding from a disregard of positive and solemn obligations," unless it shall please Your Honourable Court to confirm the testimonial of approbation accorded to him by the Government of 1830; and by a public declaration to direct that the undeserved censure of the Government of 1834 shall be cancelled.

Memorialist appeals against an order of Government, prohibiting him from remarking upon the decision on Colonel Ballantine's Case, although it severely reflects on his character.

71. That Your Honourable Court will, however, find that the defence of your Memorialist's conduct is incomplete; and one of the chief reasons inducing him to the painful step of memorializing Your Honourable Court, is to appeal against an order of Government, prohibiting him from remarking upon a letter addressed to the Commission at the close of the enquiry. In his vindictory letter of the 10th of August last, he intimated his intention to submit these remarks in completion of his defence; because the letter adverted to, was "interspersed with observations exceedingly injurious to his character, both as a public servant, and (in one instance) as Colonel "Ballantine's prosecutor;" and because, in another instance, Colonel Ballantine's conduct is extenuated, and the Resident reflected upon, in consequence of the latter *not having made a particular Report to Government, which Report the Memorialist himself did make; the reply to which is in his possession.*

Reasons why the Memorialist should be allowed to comment on the decision.

72. Government in reply † interdicted your Memorialist from submitting his proposed remarks, observing that he had no right whatever to comment "on the decision of Government "in a Case reported by a Tribunal of which he was not a Member."

Contrasts the conduct of Government towards Colonel Ballantine, in regard to the decision of the Government of 1830. Annexes his forbidden letter, and a summary of points in which favour is shewn to the accused, and injustice done to the accuser.

73. Your Memorialist is quite at a loss to understand the principle upon which he is forbidden temperately to remark on a document which condemns his conduct, and degrades him during a very considerable portion of his servitude in India, more especially when he recollects that the Government who issued the prohibition, allowed Colonel Ballantine to comment, as he pleased, upon the decision of the Government of 1830, and to vilify and abuse as he chose all whom he did not deem his supporters, but, above all, your Memorialist; and further, that it allowed him to publish a pamphlet, commenting upon that decision in a most scandalous manner, with so much apparent favour, that one of the Members of Government, the Honourable James Sutherland, received a copy, and to a certain extent aided its circulation. His remarks were nearly ready for transmission when the prohibition of Government reached him; and as they were intended as much for the consideration of Your Honourable Court as for that of Government, and as he feels himself deeply aggrieved by the decision in the abstract, as well as by the language in which it has been pronounced, he claims the privilege of respectful reply; and, in soliciting the attention of Your Honourable Court to the draft of his forbidden letter ‡ generally, he entreats consideration (as of vital importance to the right understanding of his case) to the annexed summary § of instances, in which he considers partiality has been shewn to Colonel Ballantine, and injustice has been done to the Memorialist, and others connected with these proceedings.

* Published letter of the Honourable Court of Directors, in the case of Mr. Campbell, of the Madras Civil Service, dated the 7th of April, 1819.

† Letter from Government, dated 12th September, 1834.

‡ Appendix C.

§ Appendix D.

74. Your Honourable Court will, however, perceive that, as an additional reason for desiring to submit the remarks contained in his rejected letter, the Memorialist informed Government that he had learned that Colonel Ballantine, during his mission to Baroda, had resorted to improper means in negotiating a settlement of his accounts with the Guicawar; and in Appendix H is contained a narrative of the proceedings adverted to.

Colonel Ballantine's improper conduct during his mission to Baroda.

75. Your Memorialist earnestly entreats the attention of Your Honourable Court to this narrative of Colonel Ballantine's proceedings during his mission to Baroda, and of the attempt he made to intimidate His Highness the Guicawar, by clandestinely exhibiting to His Highness's Agents five letters, purporting to bear His Highness's seal and sign manual, and to be addressed to the Chief of Joudhpoor, Runjeet Sing of Lahore, Abbas Meerza of Persia, the Pasha of Egypt, and Sumbajee Joshee, Dewan of Joudhpoor, of a most treasonable nature towards the British Government.

In the manner described in Appendix H

76. Your Honourable Court will find that His Highness formally and officially complained to Government against Colonel Ballantine, and that he has declared that the above papers are forgeries. That Colonel Ballantine, on being required to explain his conduct, forwarded to Government five letters of the nature described by the Guicawar, and admitted having exhibited them to His Highness's Agents. That the letters have been pronounced forgeries by Mr. Secretary Wathen; but had they been genuine, Your Honourable Court will perceive that they would convict Colonel Ballantine of *Misprision of Treason*, in having concealed them for several months from Government. That no further notice has been taken of these disgraceful and dishonourable proceedings; and, as far as the information of your Memorialist extends, Colonel Ballantine has not been required to prove how the letters came into his possession, and what was his object in exhibiting them to His Highness's Agents. That it is believed they were obtained from a person named Peeala Shah, *who has recently been apprehended at Poona, and delivered up by the Bombay Government to His Highness the Guicawar; because counterparts of the letters exhibited by Colonel Ballantine were found on his person.*

The Guicawar complains against Colonel Ballantine for exhibiting forged papers, treasonable against the British Government.

77. These transactions will not fail to receive the consideration of Your Honourable Court; but the object of your Memorialist in referring to them is, to submit, that, in justice to himself, as public prosecutor, and in justice to the Mahce Caunta Tributaries, ("who*, however insignificant they may appear singly, are, as a body, deserving of our primary consideration"), all Colonel Ballantine's proceedings at Baroda should be declared null and void; and that the Charges so patiently investigated and proved at Ahmedabad, according to the strictest rules of law, should not in any way be affected or vitiated by any thing which occurred at Baroda subsequent to the Commission's Report.

Request of the Memorialist, founded on these transactions.

78. Your Memorialist will now proceed to bring under the consideration of Your Honourable Court another serious grievance which he has sustained, affecting him personally, even to a greater extent than any part of the proceedings as yet brought under review. Your Honourable Court will have perceived that the enquiry at Ahmedabad originated in a letter from Colonel Ballantine to the present Government, dated the 16th of August, 1831, strongly reflecting upon the Government of 1830, and grossly misrepresenting and vilifying the conduct and character of your Memorialist.

Memorialist represents a personal grievance, exceeding any thing as yet brought to the notice of the Honourable Court.

* Vide the late Sir John Malcolm's Minute on the Political Agencies of Gujarat in 1828.

Colonel Ballantine circulates a pamphlet recriminating against the Memorialist, which produces unfavourable impressions against him.

79. On arriving at Ahmedabad, your Memorialist learned that Colonel Ballantine, with the view of forestalling public opinion in his favour, and of exciting a prejudice against your Memorialist, had lithographed and circulated this letter among the Chief Civil and Military Officers at the Presidency, and that, as might have been expected from the bold and unblushing effrontery with which it recriminated against your Memorialist, it had excited the most unfavourable impressions against him.

Accusations against the Memorialist in this pamphlet.

80. On referring to this letter, Your Honourable Court will find that your Memorialist is therein charged, in the most undisguised manner, with subornation of perjury—with having forged documents, and manufactured false evidence in support of his Charges against Colonel Ballantine—with having, on two previous occasions, promoted false and malicious charges against him—with being the author of certain letters written by the Resident of Baroda, and the Chief Secretary to Government, in condemnation of Colonel Ballantine—and with other conduct highly disgraceful and dishonourable to his character, both as a public servant and as an individual; and Your Honourable Court will further find, that these serious charges, unsupported by one iota of proof, were urged * against him by Colonel Ballantine and his Counsel throughout his trial at Ahmedabad.

Memorialist submits in silence for nearly three years. Corresponds with Government on the subject. A Member of Government, Mr. Sutherland, receives a copy of the Pamphlet. Remarks upon this act, and consequent request made to the Hon. Court.

81. That *for nearly three years* your Memorialist patiently submitted to be thus publicly defamed and traduced, in full confidence that truth would ultimately prevail, and that the Government in whose service he had become exposed to such heavy imputations, would take the vindication of his character into its own hands, or at all events permit him to justify himself, unfettered by any restrictions, more especially as on several occasions it recorded its conviction of their utter groundlessness. That, under these impressions, your Memorialist contented himself with reporting † to Government the fact of Colonel Ballantine's libellous publication being in circulation, and with recording his intention to answer it, if necessary, when the enquiry into Colonel Ballantine's conduct terminated. That, on various occasions subsequently, your Memorialist brought the subject under the consideration of Government, applied for copies of certain official documents essential to his vindication, and repeated, in the most explicit terms, his resolution to defend his character, unless ‡ Colonel Ballantine's pamphlet "was noticed (by Government) "in such a manner as would obviate the necessity of his obtruding himself on the Public, through "the same channel as that by which he had been assailed." That in none of the replies of Government was the slightest objection offered to the course contemplated by your Memorialist; but, on the contrary, their tenor was such as to lead him and his friends to suppose that his right to justify himself from Colonel Ballantine's unfounded aspersions was fully recognised and admitted by Government. In proof of this, your Memorialist begs leave in particular to refer Your Honourable Court to the letters he received from Government, dated as per margin §—in the first of which his right of reply is clearly admitted, by the Government informing him that "*he would be able to defend himself from any attacks on his character, as well from that place (Kattywar) as in Bombay*;"—in the second, his right, when vindicating himself, to make use of the "*authentic materials*," (that is, according to the interpretation of your Memorialist, of the official documents connected with the Case), in his possession, is unequivocally recognised;—and in the third, he is encouraged to have recourse to a Court of Law, which had he done, the whole

* Vide Colonel Ballantine's Defence *passim*.

‡ Letter to Government, dated 28th June, 1833.

† Letter to Government, dated 21st December, 1831.

§ 21st April, 1832; 27th August, 1833; 1st October, 1833.

of Colonel Ballantine's Case must have been placed before the Public. Your Memorialist begs further to state, that his impression respecting his right to avail himself of the *only materials* by which he could disprove Colonel Ballantine's recriminatory accusations, was strengthened and confirmed by his learning, on unquestionable authority, that one of the Members of Government, the Honourable James Sutherland, had not only received a copy of Colonel Ballantine's pamphlet, but, to a certain extent, aided in its circulation, which fully satisfied him that that high public functionary did not disapprove of Colonel Ballantine (though in direct violation of a standing order of Government) publishing an official document. That your Memorialist will leave it for Your Honourable Court to decide, how far a Member of Government was justified in countenancing a publication of the nature above described, highly detrimental to one of your Servants, connected with a Case which he knew was at the time under judicial investigation, and which must in due course come before him for ultimate judgment, and then preventing the party reflected upon, from defending himself in a similar manner; but he regards the procedure in such a light as to induce him humbly to solicit, that any opinions which that Member of Government may have recorded respecting his proceedings, or upon Colonel Ballantine's Case in general, may be duly weighed and considered, before they are allowed to influence the judgment of Your Honourable Court upon the matters at issue.

82. That your Memorialist finding, at the close of the proceedings in this Case, that Government took no notice whatever of Colonel Ballantine's lithographed pamphlet, but that the unmerited censure passed upon him, had given a weight and colour to Colonel Ballantine's accusations which did not attach to them before, he again brought* the subject under consideration. In doing so, he repeated his determination of publicly vindicating his conduct; requested that his application to be furnished with copy of the Commission's report might be reconsidered, or at all events that he might be furnished with any parts thereof, in which his conduct, as Colonel Ballantine's Prosecutor, might be alluded to; and supported this appeal by twenty-seven extracts from the pamphlet. That, on the same occasion, he contrasted the very different† line of conduct pursued by Government towards its Chief Secretary (who had likewise, in the performance of his public duty, become the object of "a scandalous and unjust attack" from Colonel Ballantine) with that pursued towards your Memorialist; and stated he was quite at a loss to comprehend why he was considered undeserving of the same degree of protection "as had been so properly extended to the highly distinguished public functionary alluded to." In reply‡ to this communication, Government simply expressed its regret that your Memorialist should think he had not met with due consideration in regard to Colonel Ballantine's attack on his character, to which no weight had been attached by Government; and, refusing to permit your Memorialist to be furnished with the documents he had applied for, again made no sort of objection to his vindicating himself.

83. Your Honourable Court will observe that in the letter communicating to Colonel Ballantine the final decision of Government upon his Case, it was left to his option to submit, if

* Letter to Government, dated 21st March, 1834.

† The attack on the Chief Secretary was contained in a letter from Colonel Ballantine to Government, dated the 20th of August, 1832: and at the close of the enquiry was thus noticed by Government. "I am instructed to intimate to you, that unless you forthwith recall the unjust and untrue aspersions which you have ventured to cast on the high character of the Chief Secretary, and express contrition for the offence of which you have been guilty, you will subject yourself to the severest censure of Government, and your conduct will be reported to the Court of Directors in the strongest terms of reprehension."—Letter to Colonel Ballantine, dated 8th March, 1834.

‡ Letter from Government, dated 19th April, 1834.

At the close of the enquiry no notice is taken by the Government of the pamphlet: the Memorialist again brings it under consideration. The character of the Chief Secretary to Government is likewise attacked by Col. Ballantine, and he is protected by Government. Reply of Government altogether unsatisfactory to the Memorialist.

Memorialist intimates his wish that Colonel Ballantine should be required to prove his counter Charges. Applies for a copy of a recriminatory letter from Colonel Ballantine, and is refused.

he thought fit, charges against your Memorialist. That Colonel Ballantine having already published serious charges against him, easily susceptible of proof, and the same being in circulation against him, unnoticed and uncondemned by Government, your Memorialist was by no means satisfied, but felt it incumbent upon him to court enquiry, and to express* a desire that Colonel Ballantine should be peremptorily required to substantiate these charges; and at the same time to apply for copy of Colonel Ballantine's letter to Government, dated the 20th of August, 1832, in which he had advanced further accusations against your Memorialist. The reply† of Government left unnoticed the first, and declined to comply with the second request; thereby establishing a principle, the injustice of which all must acknowledge, that Government is at liberty to receive and record, for transmission to Your Honourable Court, any calumny it may choose, without affording the calumniated party an opportunity of defending himself.

Memorialist commences to justify himself before the Public, Colonel Ballantine addresses Government, who prevent the Memorialist from justifying himself.

84. That, having thus exhausted every effort to avoid the painful alternative of appearing before the Public in the humiliating character of an accused person, your Memorialist proceeded to avail himself of the sanction which, in his opinion, is conveyed in the letters from Government, and to justify himself from Colonel Ballantine's unfounded aspersions, by first publicly calling upon him to substantiate the charges he had circulated against him, and to furnish him with copy of the communication which Government, as stated in the preceding paragraph, had refused. Colonel Ballantine evaded compliance with both these requests, thereby plainly admitting his inability to submit his charges to the test of a public enquiry. That a correspondence subsequently ensued between Colonel Ballantine and Government, the particulars of which are unknown to your Memorialist; but shortly after Colonel Ballantine was most effectually protected from the public exposure his conduct had subjected him to, by Government issuing an interdict to your Memorialist, prohibiting him from the use of any of the official documents relating to Colonel Ballantine's Case, or even of the facts proved in the open Court of Justice convened at Ahmedabad. Your Honourable Court cannot fail to perceive that a prohibition of this kind was tantamount to denying to your Memorialist the right of replying to Colonel Ballantine's charges at all, since it placed beyond his reach the only materials from which a vindication of his conduct could be extracted.

Government severely censure the Memorialist. Its unfriendly feeling to him exemplified.

85. That, not content with issuing this interdict, Government again visited your Memorialist with severe censure, for having, with a view of correcting public opinion, tendered for publication the decision of the Government of 1830, although, in fact, it had previously been published by Colonel Ballantine in his pamphlet, with the exception of the favourable sentiments entertained by that Government of the conduct of your Memorialist. That the unfriendly feeling of Government towards him was, he conceives, strongly evinced on this occasion, by Government noticing in terms of satisfaction, and misconstruing into "a just and severe rebuke," certain remarks of the Editors of the Public Journals, in which the correspondence of your Memorialist with Colonel Ballantine appeared, and made by them through ignorance and misconception of the case.

Striking instance of the partiality and injustice of Government.

86. That the favour of Government towards Colonel Ballantine was at the same time still more strikingly displayed, by your Memorialist being called upon to suppress any pamphlet he might have published in self-justification, containing any official letters from Government; whilst Colonel Ballantine's inflammatory and abusive pamphlet, *altogether composed of an*

* Letter to Government, dated the 22d April, 1834.

† Reply thereto, dated the 12th May, 1834.

official document, and abounding with numerous quotations from other official documents, remained unnoticed, and was permitted to continue in circulation !

87. That your Memorialist, being exceedingly anxious that no part of his proceedings should be misunderstood, annexes* to this Memorial such parts of his correspondence with Government as are necessary to establish that on various occasions his right to defend his character was fully recognised. This point being conceded, it necessarily follows, that he never could have imagined that Government intended to debar him from the free use of the only documents from which his defence could be drawn. In further elucidation of this part of the case, he also annexes† copy of his public correspondence with Colonel Ballantine, and of certain explanatory letters to the Editors of the Journals in which it appeared, rendered necessary by their observations.

To elucidate these transactions, Appendices **L** and **M** referred to.

88. Your Memorialist earnestly solicits the attention of Your Honourable Court to the whole of the above correspondence, but more especially to his letter to Government, dated the 6th of August, 1834, explaining at length the impressions under which he commenced the vindication of his character, and which was so far successful as to induce Government to withdraw the censure it had so hastily passed upon him on that point.

Government withdrawn its censure.

89. Your Memorialist further begs leave to refer Your Honourable Court to the same letter, as explanatory of the impulse which induced him with reluctance to obtrude himself on public notice, and as affording *the most decisive evidence* of the injury he had sustained, from being obliged to permit Colonel Ballantine's recriminatory charges to continue for three years in circulation without refutation. That your Memorialist with confidence submits that no man, however high he may be in rank and character, can with safety permit charges like those published by Colonel Ballantine against him to remain unanswered. Sooner or later, his silence is sure to be interpreted into an admission of his inability to meet them ; and, as has recently actually occurred in Bengal, even the grave is no security that reflections will not ultimately be cast upon his memory. Your Memorialist considers that these remarks hold good universally ; but *à fortiori* in Colonies, where, from the limited and confined state of the society, there can be no escape from *printed calumny and abuse*, except by *an equally public vindication*. Your Memorialist cannot better convey an idea of how strongly he is impressed with the above conviction, and how keenly he has felt the injustice of Government, than by informing Your Honourable Court that, during a recent dangerous illness, the issue of which was uncertain, he did not hesitate to dictate an appeal‡ to the present illustrious Governor General of India, requesting that he would review the proceedings of Government in Colonel Ballantine's Case, with the full reliance § that justice would have ultimately been rendered to the memory of your Memorialist, had his illness terminated fatally. Under these circumstances, your Memorialist is confident that Your Honourable Court will not disapprove of his having acted conformably to the above principles, when, at the expiration of three years, he was disappointed in his reasonable expectations that the Government would protect him from an attack on his character, solely originating in the conscientious discharge of a duty he *was directed to perform* ; and that if any party has erred, it is not your Memorialist, but the Government who placed him in such a false position as to render justification on his part necessary. In short, he acted under the firm belief that Government had given him permission to publish in self-defence, and he is still persuaded that his interpretation of the letters of Government was right ; but when

Printed abuse only to be met by a printed vindication. Sincerity of the Memorialist's feelings evinced by his dictating an appeal to the Governor General of India, when ill, and considered in danger.

* Appendix **L**.

† Appendix **M**.

‡ Dated 24th November, 1834.

§ The Memorialist has frequently been led to contrast the conduct of the Bengal Government towards Mr. Trevelyan, who, under peculiar circumstances, was constrained to become the voluntary accuser and prosecutor of Sir Edward Colebrooke, Bart, with that pursued by the Bombay Government towards him, who by compulsion became the accuser and prosecutor of Colonel Ballantine.

desired to refrain from publishing, he felt himself bound, as a servant of Government, to do so, but at the sacrifice of one of the most esteemed privileges of his Country.

Case of Colonel Ballantine contrasted with that of Mr. Ricketts. — Court's sentiments on the latter applicable to the former.

90. Your Memorialist cannot refrain from here adverting to the sentiments expressed by Your Honourable Court upon the Case of Mr. Mordaunt Ricketts, late Resident at Lucknow. These have recently been published, by order of Your Honourable Court, in the official Gazettes of India, for general information, and are in several respects peculiarly applicable to the Case of Colonel Ballantine. In both instances, the accused either refused or evaded an explanation of many of the suspicious circumstances of his Case, and “avoided and obstructed a full and “sufficient investigation of the Charges advanced against him.” In both, the conduct of the accused was “evasive of an enquiry which it might be expected a public functionary, conscious “of his innocence, would have been anxious to meet.” In both, the greater part of the *public establishments* of the Offices filled by the accused, were withdrawn, and the accounts and records taken away, “apparently with the design, and certainly with the effect, of precluding or materially “obstructing the means of investigating the many abuses and corruptions alleged to have been “practised.” In both, the presumptive evidence of personal corruption is corroborated, “by “the two circumstances of unquestionable ability to disprove it, if invalid, and of refusal to do “so.” To both, therefore, must the just and reasonable conclusion of Your Honourable Court equally apply, that the accused “cannot be deemed entitled to an acquittal for want of strictly “legal evidence of his guilt.” Lastly *, independent of the above circumstances, in both Cases “the course and result of the investigation of the specific Charges against the accused, are not “only inconsistent with an upright and honest discharge of his public duties, but involve acts of “positive delinquency.”—It will doubtless excite not only the attention, but the surprise of Your Honourable Court, that the decision of your Local Government nowhere notices the many evasions practised, and the obstructions raised by Colonel Ballantine against a full and complete investigation of his Case. The introduction of an Advocate of His Majesty's Supreme Court at Bombay, by one demanding an enquiry, into a Court of Honour and Equity, like that assembled at Ahmedabad, was scarcely compatible with conscious innocence; but Colonel Ballantine is perhaps the first instance on record of a man who, upon being charged with malversation in Office, has called for enquiry, and has then assumed † the right of objecting to the Charges framed against him, and of being tried on such only as suited him. Throughout his trial he obstructed the enquiry by raising legal objections, of the most frivolous nature; by requiring signatures familiar to every Member of the Commission, and facts ‡ of the greatest notoriety, to be legally proved, as if the Case had been before the Supreme Court; by denying the instructions appointing him to the situation of Political Agent, and resisting their being received as evidence by the Commission; and, lastly, by declining to grant authority for the production of certain accounts §, which would have cleared up almost every point at issue between him and Government.

* Vide Dispatch of the Honourable Court to the Supreme Government of India, dated the 17th of June, 1834, published in the official Gazettes of Fort William, Fort St. George, and Bombay.

† Vide Commission's proceedings. Colonel Ballantine objected to the first, fourth, and eighth Charges framed by the Memorialist, and actually made a reference to Government, protesting against them. Vide Appendix I.

‡ Such, for instance, as objecting to the Prosecutor alluding to a Bazar at Sadra, until the existence of such Bazar had been proved.

§ The Memorialist may here refer to the General Order, dated the 18th April, 1816, issued by the Bombay Government, suspending an Officer of Rank from his situation, and recommending the Honourable Court of Directors to dismiss him from their Service, because, in a Trial before the Supreme Court, he had demurred, through his Counsel, to be examined as a witness, on the avowed principle that it might criminate himself. The application of the sentiments of Government, published on that occasion, to the case of an Officer demanding an enquiry into his conduct, and afterwards “avoiding “and obstructing a full and sufficient investigation of the Charges advanced against him,” is too obvious to require remark.

91. That, in the proceedings above recited, your Memorialist considers himself deeply injured. They are marked in various instances with partiality towards Colonel Ballantine, and with distrust and injustice towards your Memorialist; but still, his principal hardship and grievance is, his being unjustly reprimanded and censured, instead of being thanked, for all the labour and anxiety entailed upon him, in consequence of its having fallen to his lot to expose the mal-administration of the Mahee Caunta under Colonel Ballantine. That the favour shewn to Colonel Ballantine has been immense. When he was not satisfied with the decision of the Government of 1830, passed after he had virtually declined a judicial enquiry into his conduct, he obtained the Commission. When he became dissatisfied with the latter tribunal, the enquiry by Mr. Borradaile, and the mission to Baroda, were granted to him, at which his interests were further guarded, by your Memorialist not being present to expose his accounts. Fully admitting, as he has always done, the right of Government in general to enquire into the alleged guilt of any of its servants, or to forego such enquiry at its pleasure, he cannot allow that in the present case Government had any right, after having entertained charges against Colonel Ballantine, to make any but the fullest enquiry, and that only in communication with him, since Colonel Ballantine, by the course he has adopted, of recriminating on your Memorialist, instead of defending himself, has brought his name and character so in opposition, as to make it apparent that he cannot be justly acquitted without your Memorialist being condemned. That your Memorialist is persuaded it will be found as inconsistent with precedent and practice, as it is evidently opposed to full investigation and justice, that when one public servant, in the performance of his duty, has brought charges of a serious nature against another, and the former has been required by Government to substantiate them, any enquiry connected with those charges should be made, from which the accuser is excluded: the informality, irregularity, and injustice of such a course is too manifest to be remarked upon. That, setting aside his individual claims in this case, that no proceedings should have been adopted independent of him, your Memorialist was, he conceives, as the constituted organ of Government in conducting the prosecution, entitled to full information respecting every proceeding adopted by Government. That Government has never expressed the least dissatisfaction with the mode in which he conducted the prosecution, to account for the omission. That it is not for your Memorialist to presume to watch over the interests of the East India Company, which it is the duty of the Government alone to protect; but a regard to his own reputation compelled him at the time to protest against the ex-parte and extra-judicial proceedings carried on at Baroda, in supersession of the patient and laborious enquiry at Ahmedabad; and now to state, that the public interests have by them been exposed to heavy loss. That your Memorialist feels himself called upon to remonstrate, in the strongest manner, against the principle upon which, in conjunction with the Resident at Baroda, he has been made responsible for the frauds and peculations committed in the Mahee Caunta; and to assert, without fear of contradiction, that this is the first occasion in which any Government has maintained and acted upon the dangerous doctrine, that the absence of personal integrity in one servant is either excused or palliated by the imputed negligence of another. In this Country, more particularly, but few checks exist against mal-administration; none* whatever existed to prevent that which Colonel Ballantine has been proved guilty of; and detection was impossible until after his removal, unless those through whom his public correspondence was conducted, had resorted to a system of espionage and suspicion, altogether unjustifiable, and abhorrent to all rightly constituted minds.

General reflections on the Case, in illustration of the grievances complained of by the Memorialist.

* On this subject, vide paragraph 24 of the Memorialist's Letter of Vindication from the censure of Government—Appendix B.

General reflections,
in illustration of the
effects, the proceedings
of Government are cal-
culated to produce in a
public point of view.

92. The case which has now been brought before Your Honourable Court, involves principles of the first consideration, and deeply affecting the purity of the administration of India. The grievances of which your Memorialist complains, personally, are slight, in comparison with the pernicious effects which will be produced in a public point of view, if justice and redress are not afforded. The decision of Government being unaccompanied by any expression of the satisfaction of Government with his conduct, or by a repetition of the thanks of the Government of 1830, for bringing to light the Mahee Caunta transactions—nothing, in short, beyond a cold and naked declaration * that his motives have been pure, and that his integrity is unimpeached—it is left in doubt whether he has acted right or wrong. This omission is tantamount to blame; the Government, by withholding its approbation, unequivocally shewing that in its opinion your Memorialist might, at least without censure, have failed to expose these transactions. Your Memorialist therefore respectfully solicits, not only for his own instruction, but for that of the Service generally, that Your Honourable Court will most clearly and positively decide, whether his conduct has been blameable or praiseworthy; for, warned by past experience, he himself, if again placed under similar circumstances, could scarcely venture to act in conformity to the dictates of his conscience, or for what he believed to be for the good of the public Service. Your Honourable Court will not fail to perceive the strong grounds which exist, from the labour, anxiety, and opprobrium to which your Memorialist has been exposed, that he should have a full declaration of the sentiments of Your Honourable Court in his favour, and for Government having its errors pointed out in a way that cannot be misunderstood—unless, indeed, Your Honourable Court is itself of opinion that the proceedings of your Memorialist are not such as to deserve commendation: in which case a declaration of the sentiments of Your Honourable Court will be equally useful, as a warning to himself and fellow-servants against undertaking hereafter the thankless and invidious office of a public prosecutor. Your Memorialist may, however, ask what benefit can possibly result from the promulgation of sentiments like those so recently expressed † by Your Honourable Court in the case of Mr. Ricketts, if your servants who act in conformity to them, instead of being cheered and encouraged by the approbation and support of their superiors, are to be visited with undeserved censure and reproach, like that which has been passed upon your Memorialist? If, for instance, after having prosecuted to conviction, and obtained *four awards* ‡—finding a fellow-servant guilty of having, at various periods, rendered fraudulent accounts, and, according to the most favourable of these awards, of being a public defaulter to the extent of Rupees 50,294. 2. 60, they are, in the language applied to your Memorialist, to be taunted by Government with having, by their culpable and inexcusable negligence, “entailed upon Government and upon the Service the inconvenience of the “recent investigation of charges against Colonel Ballantine for offences alleged to have been “committed ten-years ago §;” who will henceforward originate an accusation against a man of

* The Memorialist here refers to the decision of Government, as communicated to the Commission, and to Colonel Ballantine, under date the 8th of March, 1834.

† Vide also the Court's circular letter, on the case of Mr. Campbell, of the Madras Civil Service, dated 7th of April, 1819, and the letter from the Chairman and Deputy of the Court of Directors to Lord Ellenborough, dated in November, 1829, setting forth that it is the duty of the Honourable Court “to see that evil-doers are not improperly shielded from “the punishment due to delinquency.”

‡ Viz. The Government of 1830; the Commission; Mr. Borrodale; and the Government of 1834:—The 1st was Rupees 1,13,140—The 2d about Rupees 1,05,000—The 3d above Rupees 1,00,000—The 4th, Rupees 50,294. 2. 60; and that Colonel Ballantine has in his possession an unspecified amount of interest due to the Guicawar, which Government, however, rule he cannot be compelled to pay.

§ The fraudulent accounts rendered by Colonel Ballantine are dated in March and September 1828, and October 1829. They were denounced as such by the Memorialist in September and December 1828, and before the Commission!! In the two first accounts Colonel Ballantine claimed, as a balance due to him from Government, Rupees 1,603; in the last he increased his demand to Rupees 52,338.

influence and power, however gross may have been the abuse, or flagrant the oppression he may have committed? Your Memorialist is confident that this unjust reflection will not escape the notice of Your Honourable Court; and he humbly trusts that it will be condemned in the most unqualified manner.

98. Such is the nature of the Case which your Memorialist is unfortunately compelled to submit to the consideration of Your Honourable Court. He is conscious that he has not stated a single fact which is not supported by evidence of the purest description, to be found either on the proceedings of the Commission, or on the records of Government. He sincerely trusts that the object of his Memorial will not be misunderstood. Although, in representing his grievances, he has been obliged to bring prominently forward the aggravated nature of the Case proved against Colonel Ballantine, he begs leave to disclaim the remotest desire of pressing a severer judgment than that which now stands recorded against him. Towards Colonel Ballantine personally he has never felt any resentment, beyond the indignation which any man must naturally feel at being made the object of such unjust and untrue aspersions as those contained in the pamphlet he has published, and in his Defence before the Ahmedabad Commission. In conclusion, he humbly solicits that Your Honourable Court will be pleased strictly to scrutinize the whole of his conduct and proceedings, as well as those of Government; and requests—

Concluding Prayer of
the Memorialist.

Vide Letter to Colonel
Ballantine, dated the
8th March, 1834.

1st. That the sentiments of Your Honourable Court respecting the conduct of your Memorialist, may be published in the official Gazettes of India.

2d. That the finding of the Ahmedabad Commission on the Charges advanced by your Memorialist against Colonel Ballantine, may at the same time be published, and that he may be furnished with copy of the Commission's Report.

3d. That he may likewise be furnished with copy of Mr. Borrodaile's Report.

4th. That he may be furnished with copy of Colonel Ballantine's Letter to the Chief Secretary to Government, dated the 20th of August, 1832, containing charges against him, received and transmitted to Your Honourable Court, without his being afforded an opportunity of reply.

5th. That he may be permitted to justify himself from the calumnious aspersions circulated against him by Colonel Ballantine; and that the Government may be instructed to allow him the free and unrestricted use of all the official documents connected with the Case, to facilitate his vindication.

6th. That Your Honourable Court will be pleased to notice the several acts of Government against which he complains, in such a manner as will remove the unfavourable impressions against your Memorialist which those acts are calculated to excite in the minds of persons unacquainted with the facts of the Case, and with the origin and nature of his collision with Colonel Ballantine.

And your Memorialist, as in duty bound, will ever pray.

J. P. WILLOUGHBY.

BOMBAY, 11th February, 1835.

*Descriptive List of the Appendices to a Memorial to the Honourable Court of
Directors, by J. P. Willoughby, Esq. of the Bombay Civil Service.*

LETTER.	DESCRIPTION OF EACH DOCUMENT.
A	Brief review of the facts proved against Colonel Ballantine on his Trial before a special Commission convened at Ahmedabad.
B	Letter of severe censure addressed to Mr. Willoughby, accompanying the decision of Government on Colonel Ballantine's Case. Vindictory letter in reply, and the rejoinder of Government.
C	Letter addressed to the Commission, containing the decision of Government on Colonel Ballantine's Case; and comments thereon by the Memorialist, vindicating himself from sundry undeserved reflections.
D	Summary of instances in which the Memorialist considers himself aggrieved by the decision.
E	Letter to Government, and reply thereto, respecting Colonel Ballantine's mission to Baroda.
F	Ditto to Ditto—and reply thereto, preferring a charge against Colonel Ballantine, founded upon his having quietly submitted to reports being in circulation prejudicial to his character, though officially communicated to him.
G	Protest of the Memorialist against Colonel Ballantine's mission to Baroda.
H	Narrative of Colonel Ballantine's proceedings at Baroda, and of an attempt made to intimidate His Highness the Guicawar, together with the result of a complaint against him preferred by His Highness to Government.
I	Extract from the Commission's proceedings, shewing that Colonel Ballantine assumed the right to select the Charges upon which he should be tried.
J	Extract from the Commission's proceedings, shewing that Colonel Ballantine's native evidences were undeserving of credit.
K	Document referred to in the 21st paragraph of the Memorial.
L	Correspondence with Government respecting an abusive pamphlet circulated by Colonel Ballantine against the Memorialist.
M	Public correspondence between the Memorialist and Colonel Ballantine, and between the Memorialist and the Editors of the public Journals, connected with the pamphlet above mentioned.
N	Instructions issued to Mr. Borradaile.

J. P. WILLOUGHBY.

APPENDIX.

Appendix A.

Brief Review of the Facts, and Arguments to be deduced from them, proved against Colonel F. D. Ballantine on his Trial before a special Commission, convened at Ahmedabad under the authority of the Bombay Government; annexed to a Memorial addressed to the Honourable Court of Directors by J. P. Willoughby, Esquire, Prosecutor on the part of Government on that occasion.

HOW PROVED.

1st. Colonel Ballantine was appointed in June 1821, Political Agent in the Mahee Caunta. His duties were to collect His Highness the Guicawar's tribute and revenue due from that Country, and to pay them over to His Highness's Agents residing at Sadra, furnishing accounts of his collections periodically to his official superior, the Resident at Baroda.

By the Records of Government, the Resident at Baroda, and Colonel Ballantine.

2d. The tribute and revenue collected under Colonel Ballantine's authority were intermediately paid into a Branch Bank which was established as Sadra (Colonel Ballantine's head-quarters) on Colonel Ballantine's appointment; and Nanjee Jewraz, Colonel Ballantine's *head Native Agent*, was *Manager of the said Branch Bank*, being *Soonderjee Senjee's Gomashtha*, or *Clerk*.

Ditto Ditto

3d. Colonel Ballantine annually furnished to the Resident of Baroda, for transmission to the Guicawar, Statements exhibiting dues, payments, and balances; and while the tribute and revenue were accounted for, the Guicawar could not imagine that he had any further demands upon the Political Agent.

Ditto Ditto.

4th. But there were *several other miscellaneous* collections made by Colonel Ballantine, such as *Mohsullee, Interest, Fines, Taxes in the Sadra Bazar, &c.* and these were also paid over to the Sadra Branch Bank. *Of these no official statement or account was ever furnished to the Resident.* Accounts of these collections are no doubt to be found in the books of the Sadra Branch Bank, and these alone; and these books would have been produced before the Ahmedabad Commission, if Colonel Ballantine had not refused his authority, which Hunsraj, one of the partners of the Firm, required; from whence it is to be clearly inferred, that the amount of these collections has been converted to his own benefit.

By Colonel Ballantine's Records and Defence, and by evidence given before the Commission.

5th. Colonel Ballantine suffered occasionally his payments on account of the tribute and revenue to fall into arrears. Remonstrances and calls from the Resident ensued, and after delay, more or less, the requisite payments were made; official statements were also rendered, shewing the parties from whom the money professed to have been levied. On Colonel Ballantine's departure from the Mahee Caunta, and subsequently, he stated that several of these payments and remittances had been made from his private funds, and had not, in fact, been discharged by the parties whom his official statements represented to have discharged them, and that they were accordingly still due from those parties: he therefore credited himself with the amount; and in making over to his successor these (so called) dues to collect, argued that he transferred to him an available balance, equal to the credit which he took to himself. It was impossible that a system could be acquiesced in which falsified his official statements, and would have enabled him to take credit for any sum whatever, transferring to his successor unreal balances, disproved by the said statements, and it was disallowed accordingly; but the efforts which he made to

By the Records of Government, the Resident at Baroda, and by Colonel Ballantine's Defence of 1829, and subsequently.

HOW PROVED.

be allowed to set aside his former official statements, to such extent as he desired in favour of his subsequent accounts, were bold and persevering :—to reconcile such conflicting accounts was of course impossible ; but the whole subject was a difficult one fully to comprehend, and bold assertion was made with considerable effect, to supply the place of explanation. Of the credit Colonel Ballantine thus took to himself, no less a sum than Rupees 7780 was admitted by himself to consist of compound interest charged Government, at the rate of more than twelve per cent. per annum, upon loans alleged to have been advanced by him to certain Chiefs and villages under his political controul.

By obvious inference: from the proved facts of the payment of Mohsullee and Interest into the Branch Bank; from the declaration of the partners of Soonderjee's Firm, that these books contained the Mahee Caunta Agency transactions; from no other Agent being pointed out by Colonel Ballantine, as the medium through which assistance from his *private funds* was furnished to the parties in question; from various payments having been proved to have been made by Soonderjee's House (the Branch Bank at Sadra) which Colonel Ballantine stated, in his Defence of 1829, were made by himself; and by the proved fact of Nanjee Jewraz, Colonel Ballantine's Head Native Agent, being the manager of the Branch Bank.

6th. What, it may be asked, induced Colonel Ballantine to make these advances from his own funds? There is nothing, first of all, it may be answered, to prove that *he did so*; but it is by no means impossible that he may, from time to time, have remitted to Baroda, on account of the tribute and revenue due from particular parties, sums which had not been actually collected from them: he would naturally be desirous of preventing the Resident or Guicawar from having any ground to complain of delay in his remittances. The miscellaneous collections in the hands of the Branch Bank placed means at his disposal: he would, while he held his appointment, of course anticipate no difficulty in reimbursing himself; and even if, when he came actually to make from the parties concerned, those collections which he had previously discharged for them, he suffered a loss of a part of the money which he had advanced, the system generally would still be profitable, from the rate of interest charged; and a slight expenditure, to satisfy the Resident and the Guicawar that all was right, could not be considered as injudicious. Nothing could be expected to derange the working of the system while Colonel Ballantine remained Political Agent in the Mahee Caunta; but it could not continue under his successor, unless he were a person of the same principles. Colonel Ballantine ought, in prudence, on being relieved, to have relinquished all that was not due to him on his official statements; and had he done this, and paid back the amount of the Grant called the Seerpao Grant, he might have retained, as he undoubtedly intended to do all along, the *miscellaneous collections*; though he had, it is true (as hereafter shewn in Article 9), made an embarrassing admission in November 1822, that he had Mohsullee and Interest balances in his possession, which he was explicitly ordered to pay to the Guicawar. Still, as a question of pecuniary interest, this course would probably have been adopted by him; but Soonderjee's House had at the time failed, and it is believed that Colonel Ballantine lost a large sum by that occurrence: at all events, any balance in his favour in the Branch Bank's book, became then of no value towards enabling him to make the sacrifice necessary to conceal the corrupt system which had prevailed during his administration of the Mahee Caunta.

By Mr. Hornby's letters making the remittances; by Colonel Ballantine's admission; and by the accounts sent by him when he left the Mahee Caunta, to Mr. Hornby, and those subsequently given in, as regards the inadmissible Charges.

7th. A levy made by Mr. Hornby from the Rajah of Ahmednuggur, of Rupees 16,529, and paid by him to Colonel Ballantine, was, like the rest of the miscellaneous collections mentioned in Article 4, never accounted for to the Guicawar; but discovery took place, and vain attempts were made to evade payment, by balancing it with unsanctioned remissions, and unauthorized advances and disbursements stated to have been made; constituting, in fact, in many cases, demands on the part of Government which could not be enforced, and some of which Colonel Ballantine's official statements clearly shewed to be unjust.

By Colonel Ballantine's Defence of 1829, and by the Resident at Baroda.

8th. A sum of upwards of Rupees 4000 was in like manner collected from the Sadra Bazar, and not entered in any public account or official statements sent to Baroda, or deposited in the Agency office. The levying of these taxes is fully admitted by Colonel Ballantine; but he has produced no authentic account of their disposal,

By the official documents of the time.

9th. Nothing of the miscellaneous collections mentioned in Articles 4, 7, and 8 was known to the Resident or the Guicawar; but in the month of November 1822, Colonel Ballantine reported that he had an unspecified amount of Mohsullee and Interest in deposit; and in the month of September 1823, when soliciting the Guicawar to allow him Rupees 7705 per annum, for the purpose of making annual

presents to the tributaries on settling their tribute, he again admitted, in his official correspondence with the Resident and the Guicawar, that *he had in his possession realizations* on account of Mohsullee and Interest collected during three years, for which the Guicawar would receive credit ; and this credit, from that time forward, the Guicawar never ceased to demand.

HOW PROVED.

10th. In September 1827, Colonel Ballantine, having in the meantime obtained the grant alluded to in the last article, which was conceded in May 1824, *virtually denied*, in contradiction to his former admissions, that *he had any Mohsullee in his possession*, having in the meantime paid over nothing, by requesting that this demand of the Guicawar might be met by His Highness being referred to an order from Bombay, dated in December 1822, directing that from that time nothing should be levied on account of Mohsullee, beyond the amount required for compensation to the Mohsul ; thereby intimating that he had nothing in hand on account of Mohsullee.

By the official document of the time.

11th. Colonel Ballantine accordingly, in March 1828, left with his successor *no balance on account of Mohsullee, or any other miscellaneous collection* ; nor any account of such, nor any documents from which any such account could be framed. The Sadra Branch Bank had a short time previously ceased to exist ; and Nanjee, its Manager, and Colonel Ballantine's Head Native Agent, left the Company's Service when Colonel Ballantine quitted Gujerat. In September 1828, six months after his removal from the Mahee Caunta, Colonel Ballantine furnished to the Accountant General of Bombay an amended statement of the account he had left with his successor in March 1828 ; but no balance on account of Mohsullee was therein credited to Government.

Ditto, Ditto.

12th. In October 1829, *eighteen months after his departure from Gujerat*, Colonel Ballantine, when replying to Mr. Willoughby's Charges, in direct opposition to what he had said and done, as stated in Articles 10 and 11, laid before Government copied accounts of the most detailed nature, "*now framed*," as he said, "*from the public accounts of the Agency*," in which he admitted to be due from him the sum of Rupees 24,727, on account of Mohsullee, collected in about equal portions, previously and subsequently to the receipt of the Bombay Mohsullee Order of December 1822, mentioned in Article 10.

By the official document cited.

13th. He was accordingly called upon to produce "*the public accounts of the Agency*," being told that he must, until he did so, be debited with all his official statements sent to Baroda exhibited against him, as well as all that his "*framed*" accounts proved against him, though the credit claimed in such "*framed*" accounts could not be admitted, until the original accounts which were in his possession were produced. *This call he has not complied with, the said public accounts of the Agency having never to this day been produced.*

Ditto, Ditto.

14th. In Article 4 it is shewn that Colonel Ballantine collected interest ; and in Article 9 it is shewn that he admitted that he had money in hand on that account : he admitted this in the same way as he admitted that he had in his hands a Mohsullee balance, though he afterwards asserted that he meant that there *would be* interest realizations in his hands, and not that there *were* realizations ; which assertion, as it was contrary to the fact as regarded Mohsullee, it must be evident, was likely to be so as regarded Interest. A few items of interest were proved before the Ahmedabad Commission to have been levied ; but the true amount can be known only from an inspection of "*the public accounts of the Agency*," which Colonel Ballantine has failed to produce : these accounts are undoubtedly the accounts of the Sadra Branch Bank, which it has been shewn, in Article 4, Colonel Ballantine prevented being produced. The present Government allege, that the partners of the Bank did not give an unreserved consent to their production ; but it would be a great error to imagine that it is, or ever was, in the least degree doubtful that the partners would have produced the books, if Colonel Ballantine had authorized them to do so ; nor can one conceive that Colonel Ballantine would have incurred, unless well aware of the necessity of

By the official documents cited ; by Colonel Ballantine's Defence before the Commission ; and the recorded answers of the partners of Soonderjee's Firm ; and by obvious inference.

HOW PROVED.

it, the condemnatory imputations arising from his refusal to grant his authority for the production of the books ; and again, admitting, as the partners had done, that Colonel Ballantine's Mahee Caunta accounts were contained in their books, it is clear, that if Colonel Ballantine *wished*, they might have been justly *compelled* to produce their books, if they refused voluntarily to do so.

By the official documents cited, and by Colonel Ballantine's admission.

15th. The "*framed*" accounts mentioned in Article 12, contain minute lists of *presents* purchased, given, and received ; but the "*public accounts of the Agency*," from which they are stated to have been "*framed*," have never been produced, and no authentic account of these transactions has consequently ever been exhibited by Colonel Ballantine, though admitted by him to have been in his possession in October 1829.

By the Records of the Guicawar, the Resident at Baroda, and Colonel Ballantine.

16th. It has been said in Article 9, that Colonel Ballantine solicited from the Guicawar a yearly grant of Rupees 7705, for providing annual presents to the tributaries, on settling their tribute : he obtained this in May 1824. He furnished lists of the persons and villages among whom it was to be distributed, shewing the amount assigned to each, and stated that these lists had been framed after a careful enquiry into the claim of the tributaries. It was claimed by him, as a right founded on ancient custom : its amount and distribution had before, he said, been arbitrary, and he represented it to be his desire, by his lists, to fix both for the future.

By the official documents of the time, and by Colonel Ballantine's admission.

17th. At the time of conceding the grant mentioned in the last article, the Guicawar agreed that it should have retrospective effect for five years, or from the date of Colonel Ballantine's appointment ; and Colonel Ballantine accordingly received at once Rupees 38,535 ; and subsequently, for three years, three annual payments of Rupees 7705 each, in all Rupees 61,640.

By Colonel Ballantine's admission.

18th. It is now fully admitted by Colonel Ballantine, that the amount of the grant was *never disbursed by him in the way prescribed in his lists*, but was spent in *presents generally* ; the disbursements for the first five years having, he says, been previously made by him from his *private funds* ; and in Article 15 it is shewn, that the public accounts of presents purchased, given, and received, *have been withheld from examination* by Colonel Ballantine.

By the Records of Government.

19th. The Guicawar is, however, stated to have orally stated to Colonel Ballantine and Lieutenant-Colonel Burford, during a visit which the former was directed to make to Baroda last year (1833), that he intended the money to be disbursed by Colonel Ballantine in making presents indiscriminately, as Colonel Ballantine pleased, and that His Highness required no account. But this declaration, as to the intended application of the money, is invalidated by the following facts and arguments :—

By the Records cited.

First—His Highness's records, which are quite consistent with those of the Residency, and Colonel Ballantine's official letters of the time, *prove the direct reverse*, and shew that the grant was given to be disposed of according to Colonel Ballantine's lists.

By Ditto, and by obvious inference.

Second—The same recorded letters shew that it was given, *after great delay, and very reluctantly*, though demanded as a right, to particular parties, founded on ancient custom. Resisted as such a demand so founded was, it is impossible that the money should have been granted in the liberal spirit represented, without any person having a right to any portion of it ; and such resistance is quite in accordance with the Guicawar's character, and such liberality is quite inconsistent with it.

By the Records of Government.

Third—His Highness, on two former occasions, when uninfluenced by Colonel Ballantine's presence, on the 8th April 1832, and on the 15th March 1833, in answer to written questions

HOW PROVED.

put to him on this point, made two declarations in writing, *contrary to the oral declaration in question*, and conformable to the public records, stating that he made the grant for the purpose of being distributed *according to Colonel Ballantine's lists*, and in the hope that he should receive the Mohsullee and Interest realizations promised, which had, however, never been paid to him.

Fourth—His Highness is well known to be excessively fond of money, and might reasonably be expected, therefore, to make a declaration, though contrary to truth (which he is known also little to regard), which would put it in his power at any time, without infringing the defined rights of any one, to place the money in his own coffers, by simply resolving to discontinue the system of giving presents: whereas, by declaring that the grant was made for the purpose of being distributed, *according to fixed rules*, to certain parties *entitled to it—first, by ancient custom, and secondly, by His Highness's formal grant*—it is clear that he left himself no means of discontinuing this expenditure, to which the parties benefiting by it were evidently *entitled, according to justice, and under the British guarantee*.

By universal admission, as regards His Highness's character, and by obvious inference.

Fifth—Colonel Ballantine has, in his own defence, completely falsified the oral declaration mentioned at the commencement of this article; having stated that, though he and the Resident knew that the grant was to be disposed of in providing presents, as Colonel Ballantine wished, this fact was concealed from the Guicawar, who was always informed, and believed, that the *grant was to be distributed, as prescribed in the lists framed by Colonel Ballantine*, to certain parties entitled to it by ancient custom, as it was considered certain that the Guicawar would never concede the grant unless it was demanded as a right. To those who know the Guicawar, it need not be observed that this statement, so far as His Highness and Colonel Ballantine are concerned, receives every confirmation from the Guicawar's character.

By Colonel Ballantine's defence of 1829, repeated before the Commission; and by obvious inference.

20th. Supposing it established, nevertheless, that the Guicawar agreed to give to Colonel Ballantine, and Colonel Ballantine to receive from the Guicawar, a grant of money, for purposes quite distinct from those declared in the public records, and of the disposal of which grant no authentic accounts are produced by Colonel Ballantine, though such are admitted (see Articles 12 and 15) to have been in his possession in October 1829, the Resident, at the time, knowing nothing of the understanding between the Guicawar and the Political Agent, it would surely follow, that the least punishment which Colonel Ballantine could expect, would be his being compelled to refund the money.

By obvious reasoning.

21st. Colonel Ballantine seems quite sensible of this, for he does intimate, in various places, that the Resident knew that the grant was to be applied by Colonel Ballantine to providing presents as Colonel Ballantine pleased. The Resident positively denies this, and Colonel Ballantine has no evidence whatever: and it is for reasonable people to determine whether credit should be given to the assertion of the Resident, a man of unblemished honour, confirmed as such assertion is by the records of the time, including those of Colonel Ballantine himself; or to the assertion (contrary to the said records) of Colonel Ballantine, who, within even the limits of his defence on the Seerpao Charge, can easily be shewn to have made the most conflicting statements.

By Colonel Ballantine's Defence; by the declaration of the Resident; and by obvious reasoning.

22d. Nor even if the Resident had been a party to the plot, could Colonel Ballantine be justly relieved from the obligation to refund the money, though his misconduct would be palliated by that of his superior officer; for under these circumstances the Guicawar would have been *cheated* out of the grant, since it is *manifestly impossible* that the Guicawar, the Resident, and the Political Agent could all have known that the grant was to be expended by Colonel Ballantine in making presents as he pleased; for, in this case, why, in the name of common sense, should they not have stated this in the records of the time?—and why, on the contrary, with no party to please but themselves, should they all have placed severally

By obvious inference

HOW PROVED.

on their respective records, a specific disposition of *the whole of the fund*, the observance of which at once frustrated that measure which they all desired?

By the Records of Government.

23d. The claim of the Tributaries to their yearly Seerpao is, however, doubted, from the circumstance of the Tributaries having made no complaint about the Seerpao previously to 1828. In answer to this it may be observed :—

By Colonel Ballantine's Defence.

First—That the Tributaries under Colonel Ballantine's management *did not learn until 1828*, when Colonel Ballantine left the Mahee Caunta, that *any grant whatever had been applied for, and conceded* in their behalf; Colonel Ballantine having, according to his own admission, entirely *concealed* these facts from them.

By obvious reasoning.

Second—That it could hardly be expected, as regards the persons or the claim, that the Tributaries of the Mahee Caunta should be constantly petitioning for Seerpao, as workmen would do for their hire.

By obvious reasoning, and by Colonel Ballantine's records and defences, as regards his contradictory statements of the rights of the Tributaries at different times.

Third—That it is by no means proved that the Tributaries have, from *precedent and ancient custom* (on which alone, of course, they could be expected to found earnest and repeated petitions), a *clear and indisputable right to the Seerpao* which they would have had to claim. *His own records* certainly *precluded* Colonel Ballantine from arguing that the Tributaries were *not originally* entitled to receive the Seerpao; but still they *may not have been so*, though he so positively and repeatedly stated *the contrary*: and the feeling on their part that they had no original sufficiently defined title, would fully account for their not constantly urging their claim; and Colonel Ballantine has also occasionally, *in direct contradiction to his records*, denied their *original* claim.

By obvious inference.

Fourth—Previous to Colonel Ballantine's removal from the Mahee Caunta, it was not likely that complaint would be made; the only channel open for the complaints of the Tributaries being Colonel Ballantine, the Political Agent, to whose authority and controul they were subject; the privilege of direct appeal on their part to the Resident at Baroda not being recognized.

By obvious inference, and by the official documents cited.

Fifth—Colonel Ballantine *can easily prove the fact*, if such it is, that the Tributaries specified in his lists, have received from him, in presents, the amount of their Seerpao, by producing the account of presents mentioned in Article 15, which he has refused to do. But it can scarcely be expected that *such fact should be established*; for the "*framed*" accounts distinctly prove that these Tributaries *have not received*, in presents from Colonel Ballantine, an amount any thing like the amount of their Seerpao.

By Colonel Ballantine's various accounts of 1828, 1829, and 1839.

24th. Colonel Ballantine, in endeavouring to reconcile his official statements, and the accounts which he subsequently gave in, with the view of obtaining more credit than those statements gave him, encountered the same difficulties in regard to the unauthorized advances and remissions, and unsanctioned charges which he had to bring forward, as he had experienced in regard to his payments professedly made *on account of tribute and revenue collected*, when he desired subsequently to shew that such tribute and revenue *had not been collected*, in order that he might recover credit for the amount.

By the official documents cited, and the Records of Government.

25th. In the account rendered to his successor in March 1828, and in the amended statement of the same, furnished six months afterwards to the Accountant General, Colonel Ballantine claimed, as a balance due to him from Government, Rupees 1603; but in an account submitted to Government in October 1829, this demand against the Public Treasury was increased to Rupees 52,338.2. As he

HOW PROVED.

would produce no authentic accounts, the amount shewn to be due from him, by his official statements sent to Baroda, and the amount admitted to be due from him in his "*framed*" accounts, were adjudged to be repaid by him. On these principles the Government of 1880 adjudged him to repay Rupees 1,13,140; the Ahmedabad Commission about Rupees 1,05,000; Mr. Borrodaile more than Rupees 1,00,000. The Government of 1834, by absolving him from paying the Seerpao, has eventually adjudged him to pay Rupees 50,294; and at the same time finding him guilty of rendering several fraudulent accounts.

26th. Subsequently to Colonel Ballantine's time it has been resolved by Government, that the Seerpao is to be distributed *according to his lists*, which are thus made *binding on every body* except the man who *framed them*.

By the instructions of Government to the Political Commissioner for Gujarat.

27th. Colonel Ballantine, in a letter to Government, dated the 7th October, 1829 (paragraphs 5 & 68), unequivocally admitted that an English Mohsullee account was kept in his office, which, when he left Gujarat, he carried away with him by mistake. When required by the Commission to produce this account, he retracted his previous admissions, although its existence was placed beyond doubt by a letter written by one of Colonel Ballantine's clerks, directing another clerk at Sadra to send the account to Ahmedabad; which further proved that it was taken away designedly, and not, as stated by Colonel Ballantine, unintentionally.

By the official documents cited, and Colonel Ballantine's letters to the Commission.

28th. Colonel Ballantine placed before the Commission a native Mohsullee account, asserting that it was the original of the English Mohsullee accounts forwarded to Government in October 1829; but this assertion was falsified, by the fact that the English account *contained entries and information not to be found in the alleged original*. The native Mohsullee account, moreover, contained forty-three erasures at corresponding places, under different entries; *which were undeniably proved to have been designedly made, to conceal as many references to pages of another account, not produced by Colonel Ballantine*.

By the Commission's proceedings.

29th. To exonerate himself from the 7th, or Seerpao Charge, Colonel Ballantine summoned before the Commission at Ahmedabad fourteen witnesses: with one exception, the testimony of all of these persons was invalidated, either by Colonel Ballantine's accounts, by their contradicting each other, or by their endeavouring to prove, contrary to Colonel Ballantine's Defence, that the Tributaries yearly received Seerpao from Colonel Ballantine; and against one of them an *alibi* was clearly established by documents signed by himself.

By Ditto, Ditto.

30th. With the same object, Colonel Ballantine laid before the Commission an account, which he asserted was the original account kept in his office, of his receipts and issues of presents, as Agent in the Mahce Caunta. This account was not only shewn to be a recent compilation, and to be falsified to a large extent; but, supposing it to be genuine, it in a great degree established the charge. It contained fifty erasures, over which, in almost every instance, the name of the same person (one Govindjee Ambaram) was written; and these were undeniably shewn to have been designedly made, to conceal that the whole of the Seerpao Grant was originally entered into the accounts of the Sadra Branch Bank of Soonderjee Sewjee, the word "*Sewjee*" being distinctly visible at one of the erasures, and the letter V at another. Govindjee Ambaram was produced to support the account; and asserted that at a time, when in reality he was at Oodeepoor, in the distant Province of Meywar, employed by a mercantile Firm of Ahmedabad, he was residing at Sadra, in the service of Colonel Ballantine. This person, moreover, positively denied the fact, distinctly proved by two of the partners of the Firm, that Nanjee Jewraz was *Manager of their Branch Bank at Sadra*, as well as Colonel Ballantine's *head Native Agent*.

By Ditto, Ditto.

HOW PROVED.

By the official document cited.

31st. Colonel Ballantine, in a report to Government, dated in October 1829, stated that his accounts of presents were framed from original documents, purposely kept by him when Agent in the Mahee Caunta, as a "*check to the native Duflur.*" He was required by the Commission to produce this *check account*, but failed to do so.

By the Commission's proceedings.

32d. When Colonel Ballantine left Gujerat, Nanjee Jewraz, his head native assistant, in the receipt of a salary from Government of 200 Rupees per mensem, and the greater part of the persons composing his Establishment, receiving fixed salaries, quitted the service of Government; and never returned until their presence was required by Colonel Ballantine, to aid him in his Trial at Ahmedabad.

By the Charges laid before the Commission.

33d. In addition to the Charges which resulted in the pecuniary liabilities mentioned in the preceding Articles, Colonel Ballantine was accused of having left his Station precipitately, and without affording his successor the opportunity of examining his accounts, and of passing the usual receipts, according to the express orders of the Resident; of having left his records and accounts incomplete; and of having neglected to furnish the Resident with accounts of presents issued and received, as he was bound to do by the rules of the Service and his official oath.

By Colonel Ballantine's public letters of 1828, and by his admission as regards his sending to his private Agent seven account books, appertaining to his official pecuniary transactions.

34th. Colonel Ballantine was at Ahmedabad until the 16th of March, 1828, *with the Establishment* of the Mahee Caunta Agency, making up his accounts, which were closed *only on that day*: he sent them *on the same day* to Mr. Hornby, his temporary successor, then at Dubora, distant from Ahmedabad about twenty miles in a northerly direction; and *on the very same day* he departed for Cambay, distant from Ahmedabad fifty miles in a southerly direction. He got, and could get *no receipts* from Mr. Hornby, who did not receive the papers sent until after Colonel Ballantine had embarked at Cambay for Bombay; though the Resident's instructions to Mr. Hornby, to see that the requisite receipts were exchanged, and that duplicates were furnished to the Resident, *passed through Colonel Ballantine*. Under such instructions neither Colonel Ballantine nor Mr. Hornby could have overlooked the necessity of the necessary receipts being passed; and it is for impartial people, therefore, to decide whether the disobedience of these instructions, which must have been wilful, is to be attributed to Mr. Hornby, who could have no possible motive to disobey them, or to Colonel Ballantine, whose accounts and transactions were as above described; and who, it will be subsequently seen, admits he sent no less than *seven account books*, appertaining to his official pecuniary transactions, to his *private Agent*, a Carcoon in the service of the Firm of Soonderjee Sewjee, instead of dispatching them to his successor.

By Colonel Ballantine's official letters of 1828, and by obvious inference.

35th. Colonel Ballantine alleged that Mr. Hornby was placed by him in charge, on the 17th of February 1828; but this is a misstatement—his letter of that date merely informs Mr. Hornby that he "*is to be*" placed in charge: and Colonel Ballantine, as above stated, remained *with the Establishment, making up his accounts*, until the 16th March, 1828; and it was *on this date*, that in writing to Mr. Hornby, he sends him what he calls his accounts "*on*" his "*being placed in charge.*" Colonel Ballantine, and not Mr. Hornby, *drew the allowances until the 16th March, 1828*. Mr. Hornby, it is true, *thought himself in charge* of the general duties of the Agency on the 22d February, 1828; but he never thought, and never could think, that that charge extended to the accounts yet unclosed of Colonel Ballantine, who had them with him, as also the Establishment, and was engaged in making them up. Now, the whole of the question is confined to the accounts, and has no reference to the general duties.

By the Records of Government, and by obvious reasoning.

36th. Mr. Hornby was then, and had been for some time previously, stationed at Koral, transacting political duties as Colonel Ballantine's assistant; and it has been alleged that he might and should have repaired to Ahmedabad to receive the accounts; but it is evident that, had he done so,

he must have been informed that they were not ready, for they contained entries to the 16th March, 1828, when he must either have returned to Koral, or neglected his duties by remaining uselessly at Ahmedabad, without the limits of the Mahee Caunta Agency. Colonel Ballantine, who alone knew when his accounts would be made up, and when it was his intention to leave Ahmedabad, should, it is evident, have informed Mr. Hornby when he would be prepared to deliver over his accounts; or should, at least, if he sent the accounts to Mr. Hornby without previous notice, have awaited the arrival of Mr. Hornby's answer acknowledging the receipt of them.

37th. Mr. Hornby, on receiving what were called the accounts and records, took no list of them, as he ought to have done: his suspicions were excited—he thought the records few, and he did not understand the accounts; and he accordingly proceeded immediately to Ahmedabad, to procure explanation. On his arrival there, he found that Colonel Ballantine had departed to Bombay, as shewn in Article 34, on the day that he dispatched the papers to Mr. Hornby. He asserts that he wrote several letters to Colonel Ballantine regarding the records and accounts, but got no answers. Colonel Ballantine denies that he received any of these letters. Five months afterwards Mr. Hornby delivered over charge to Mr. Willoughby, and an exact list of the records and accounts was then taken. Great deficiencies were then found to exist, and Colonel Ballantine subsequently admitted, as alluded to in Article 30, that he had sent to his private Agent seven account books, which appertained to his official pecuniary transactions; there was also direct evidence given by Colonel Ballantine, and persons on the Establishment, and connected with the Agency (Vide Articles 27 and 31), of other books having been removed by Colonel Ballantine's orders; and Colonel Ballantine has made contradictory statements on this point. It is therefore for reasonable persons to decide, whether the proved deficiencies of the records and accounts are attributable to Mr. Hornby, whose honour has never been impeached, who states they did not occur in his time, and who is not alleged to have had any motive for making away with records and accounts; or to Colonel Ballantine, whose accounts and transactions were as above described, and who admits the truth of the charge as regards the accounts.

By Mr. Hornby's evidence before the Commission; by Colonel Ballantine's virtual admission, in so far as he has not denied the facts stated; by his positive admission in regard to the seven account books; and by obvious inference.

38th. Colonel Ballantine fully admits the fact of his having omitted to furnish the Resident with accounts of presents given and received, as he was bound to do. This omission is, however, extenuated, on the ground that the Resident never called for these accounts, though they were prescribed by order of Government, communicated direct to Colonel Ballantine. That Officer's proceedings and transactions having been as above described, and in particular, he still declining to produce his public accounts, which contain accounts of his receipts and issues of presents, though he is shewn to have had them in his possession in October 1829, it is for impartial people to determine whether the omission in question was really one of accident and inattention, or whether it was the result of design, for the purpose of concealing Colonel Ballantine's irregularly derived pecuniary advantages; which design is still persevered in, and acted upon. It is for such people also to decide, whether any excuse whatever can be admitted for his not subsequently producing the said public accounts when demanded, and admitted to have been in his possession in October 1829, since Colonel Ballantine himself admits that it was a failure of duty in him, though palliated by the neglect of the Resident, that he did not furnish the said accounts periodically.

By Colonel Ballantine's admission, and by obvious reasoning.

The foregoing facts and arguments may be of use in enabling people to say how far Colonel Ballantine has been proved guilty of the Charges brought against him, which were as follow:—

For dereliction of duty in the following instances—

First—In proceeding to the Presidency, on being appointed to the command of the troops in Candeish at the commencement of 1828, without giving his successor the opportunity of

HOW PROVED.

entering into an examination of the office he vacated; such being a violation of the Rule prescribed by Government in a circular issued to him, in common with the Service generally, in August 1828.

Second—In failing to deliver over to his successor the records of his Agency in a complete and perfect state.

Third—In failing to deliver over account books, the keeping of which must have been essential to the true and faithful discharge of his duties, and some of which, from the evidence of persons on his Establishment, are known to have existed.

Fourth—In furnishing his successor, the Resident at Baroda, the Accountant General, and Government, with irregular, inconsistent, and incorrect accounts, the results of which are far more favourable to his pecuniary interests than could have been exhibited by correct and true accounts.

Fifth—In having appropriated to his own use a considerable sum of money collected by him from the Tributaries in the Mahee Caunta, under the denomination of Mohsullee and Interest; and in having levied Mohsullee beyond what was required as compensation for the Mohsul, after the orders of Government, forbidding such excess, had been communicated to him.

Sixth—In having unauthorizedly levied, without any account rendered, various collections in the Sadra Bazar.

Seventh—In having received from the Guicawar, or, which was the same thing, deducted in his accounts with the Guicawar, from the tribute of the Mahee Caunta, during a period of eight years, a sum of Rupees 7705 per annum, on account of Seerpao, or presents to the Chiefs on payment of their tribute, and not having disbursed it in the way intended; but, on the contrary, having converted it, either wholly or in part, to his own benefit.

Eighth—In not rendering an account of the ordinary receipts and issues of presents received and issued by him, in his official capacity of Political Agent in the Mahee Caunta, during a period of about eight years, and not delivering over any record of the same to his successor.

The evidence upon which each of the facts mentioned in the foregoing Articles depends, is referred to in the margin.

By the Records of Government.

The Bombay Government of 1830 unanimously found Colonel Ballantine guilty of Charges the same in effect, though not entirely in form, as the foregoing.

By the Commission's proceedings.

The Ahmedabad Commission of 1832 unanimously found the whole of the foregoing Charges proved.

By his Report.

Mr. Borradaile, in 1833, found such of the foregoing Charges as were referred to him proved.

By the Records of Government.

The Bombay Government of 1834 acquitted Colonel Ballantine (though it is believed not unanimously) of the 1st, 2d, and 3d Charges; found him guilty of the 4th and 5th; acquitted him of the

6th and 7th, and found him guilty of the 8th ; though his misconduct was considered to be palliated, in consequence of the neglect of his superior officer, the Resident at Baroda, to require the prescribed accounts of presents.

All the material grounds on which the foregoing acquittals were founded, have been noticed in these remarks.

BOMBAY, 11th February, 1835.

J. P. WILLOUGHBY, B. C. S.

Appendix B.

No. 356.

POLITICAL DEPARTMENT.

To J. P. Willoughby, Esquire, Agent for the Prosecution of Colonel Ballantine before the special Commission at Ahmedabad.

SIR,

1. I am directed by the Right Honourable the Governor in Council to transmit to you the accompanying copies of my letters of this date to the Gentlemen who composed the late special Commission which assembled at Ahmedabad for the trial of Colonel Ballantine, and to that officer, conveying the decisions and sentiments of Government on the several Charges brought against Colonel Ballantine on the proceedings of the Commission, and, generally, on the transactions which came under review.

2. The investigation, I am directed to state, has convinced his Lordship in Council, that the controul exercised by the Resident at Baroda, and by you, when you were in charge of the Residency over Colonel Ballantine, was far less vigilant and efficient than your public duty required. It is quite clear that you knew that Colonel Ballantine was transacting his business in the Mahee Caunta Agency in a loose way ; and his Lordship in Council directs me to express to you his dissatisfaction at your remissness in not calling him to account during such part of the period which elapsed from 1822 to 1828 as you were in charge. In this remark allusion is made, I am directed to state, to the delay allowed to prevail in the remittance by Colonel Ballantine of the Guicawar's dues ; the neglect to call Colonel Ballantine to account from 1822 to 1827 for the sums on account of Mohsullee and interest which he was believed to have in his possession ; the suffering the Seerpao Grant to be disbursed in the way it was, without any enquiry made, or account demanded by Colonel Ballantine's superior officers ; and the failure to notice Colonel Ballantine's neglect, in never transmitting the monthly account of presents made and received, which it was his duty to furnish.

3. Although Government has been pleased to acquit Colonel Ballantine of several of the Charges brought against him, his Lordship in Council directs me to assure you, that he has the fullest confidence in the purity and honesty of your intentions and conduct in advancing them, and in your firm conviction of the truth of all that you alleged ; and sincerely regrets the trouble and inconvenience to

which you have been exposed in the course of this long investigation. The Governor in Council, however, I am instructed to observe, cannot admit, as you would appear to think, that an invidious duty has been imposed upon you ; since common justice demanded that you should be required to prove your accusations, before Government could hold Colonel Ballantine to be guilty.

I have the honour to be, &c.

(Signed) CHARLES NORRIS, *Chief Secretary.*

BOMBAY CASTLE, 8th March, 1834.

To Charles Norris, Esquire, Chief Secretary to Government.

SIR,

1. I now beg leave to redeem the promise made in my letter of the 21st of March last, to attempt to defend myself from the severe and unmerited reflections cast upon my official character in your letter and enclosure of the 8th of March ; and to state that the delay which has occurred in the performance of this incumbent duty, has originated in my absence from Rajcote, and in the discharge of public engagements that could not be postponed.

2. In making my defence, although it shall be my endeavour never to lose sight of the respect and deference due to the High Authority from whom the censure conveyed in your letter emanates, still I must, at the outset, claim the latitude of remark usually accorded to persons in my unfortunate predicament ; and if, in the course of my reply, I am betrayed into any warmth of language or feeling, I hope to receive indulgence, and that the same will not be attributed to a designed disrespect towards Government, but to a consciousness that I have received censure when the highest meed of praise was my due.

3. I beg further to premise that, as my defence is to be drawn from the public records of Government, I labour under considerable disadvantage in not having access to those records in a complete state. Had I such access, I would compile a summary of all I did and performed, and of all the strong testimonials of approbation I received, during the various periods I was in charge of the Baroda Residency. These aggregate one year and eleven months ; and the censure with which I am visited, extends over the whole period, without any qualification whatsoever.

4. Fortunately I have accustomed myself to attach some value to, and consequently to preserve, the numerous testimonials of approbation I have received during my official career in India. These were bestowed by the Governments of the Honourable Mountstuart Elphinstone and Sir John Malcolm ; men who all will acknowledge were well qualified, by their own eminent talents and extensive experience, to judge rightly when either praise or censure was due to those who had the good fortune to serve under them. It is from them, and some documents I have obtained through the courtesy of the Political Commissioner for Gujerat, that I am sanguine I have it in my power clearly and satisfactorily to prove that the retrospective censure of his Lordship in Council is, under all the circumstances of the case, entirely undeserved.

5. The Right Honourable the Governor in Council has ascertained with tolerable accuracy that the aggregate period during which I temporarily officiated as Acting Resident of Baroda, was one year and ten months, viz. on the following occasions :—

	Year.	Mths.	Days.
1st. From the 26th October, 1822, to the 27th January, 1823.....	0	3	0
2d. From the 7th May, 1823, to the 14th August, 1823	0	3	7
3d. From the 4th March, 1824, to the 2d April, 1824.....	0	0	29
4th. From the 28th April, 1825, to the 20th November, 1825.....	0	6	22
5th. From the 11th April, 1827, to the 15th January, 1828.....	0	9	4
Total	1	11	0

6. I am therefore virtually declared by his Lordship in Council, in your letter of the 8th of March last, to have violated my covenant to serve the East India Company diligently and faithfully during a period of at least five years. I ardently desire that when his Lordship in Council so nearly ascertained the exact period I was in charge of the Baroda Residency, he had at the same time been pleased to refer to the records of that period: I feel convinced I should then have escaped the censure I am defending myself from; as abundant proof would have been found among those records, of my zeal and unwearied diligence in the performance of the very duties I am now adjudged by the present Government to have neglected. Circumstanced as I am, I can only oppose the approbation of former Governments to the censure of the present Government, and leave with confidence the High Authority, by whom I am thankful to think the whole of my conduct will be ultimately reviewed, to decide between the conflicting opinions which the comparison will elicit.

7. The superintendence of the Province of the Mahee Caunta devolved upon the British Government under the provisions of a Treaty* concluded in 1820 with His Highness the Guicawar, by the Honourable Mountstuart Elphinstone in person. Major, now Colonel Ballantine, was appointed Political Agent, and assumed charge of his office in July 1821. His instructions directed him to keep the accounts of the tribute he had to collect in a clear and simple form, so as to afford the means of always satisfying the Native Government that the Treaty was duly fulfilled. I became in charge of the Baroda Residency for a few days in June 1821; and during this period forwarded, in a letter † of twelve paragraphs, some very voluminous figured statements, in elucidation of His Highness the Guicawar's claims on the Mahee Caunta. Colonel Ballantine's first financial report was dated the 15th October, 1822. On the 10th of November I replied, as acting Resident of Baroda, in a letter of twenty-three paragraphs; and on the 22d of the same month forwarded both to Government, in a letter of thirty-eight paragraphs. My letter produced a rejoinder from Colonel Ballantine, dated the 8th of January, 1823, consisting of thirty-one paragraphs; which I replied to on the 21st, in one of twenty-four paragraphs, transmitting both to Government on the 12th and 26th of the same month, with suitable remarks. On the 27th I was relieved from the charge of the Residency.

8. I beg, in justice to my character, that his Lordship in Council will be pleased to refer to the above correspondence, and ascertain whether it betrays any evidence to support the opinion that has been conveyed‡ to me by his order, that the controul I exercised over Colonel Ballantine "was far less vigilant and efficient than my public duty required, and that it is quite clear that I knew that Colonel Ballantine was transacting his business in the Mahee Caunta in a loose way." I feel quite persuaded that such a reference must be followed by an admission that I do not deserve such censure. When the charge of the Residency first devolved on me, it will be seen, so strict was my supervision over the Agent's acts, that Colonel Ballantine formally complained of the severe inquisition I had instituted into his accounts, and alleged that, in exposing the numerous errors and inconsistencies with which they abounded, I intended to question the rectitude of his motives. I disavowed any such

* Vide Exhibit C. P.

† Vide my Letter, dated the 16th of June, 1821.

‡ Letter from Government, dated the 8th of March, 1834.

intention in a letter of the 27th of January ; and the complaint was forwarded to Government by the Resident on the 3d of February, with his opinion, as follows, on the point at issue :—

“ I therefore confine myself to expressing my entire concurrence in the line of conduct observed
 “ by my Assistant, whose dispatches appear to have been written in a tone of great moderation and
 “ delicacy, and whose bounden duty it was to obtain the most clear and perspicuous account of the
 “ Guicawar's claims from the Political Agent previous to submitting them to His Highness. When
 “ the papers forwarded by the Agent were found to differ so much from the statements furnished
 “ by the Guicawar Government, so clearly pointed out in Mr. Willoughby's letter of the 10th
 “ November last, and the demands for remissions of tribute were so large, without any reason being
 “ assigned, capable of satisfying His Highness's mind that they were justly or necessarily demanded,
 “ the Assistant in charge had no other alternative but to call upon the officer in charge of the Mahee
 “ Caunta to provide the requisite explanations ; for had he not done so, he would have subjected himself
 “ to the censure of Government. In doing so, however, he has evinced no intention of calling in
 “ question the rectitude of Major Ballantine's conduct ; but it became requisite, when omissions and
 “ inaccuracies accidentally occurred in the statement made by that officer, to point them out, and to
 “ shew that they did not originate with the Residency.”

9. It is, however, consoling to me to be able to shew that I am not obliged to shelter myself simply under the above opinion of my superior in office, who has, I am concerned to find, been made my associate in the condemnation passed upon me by the Government. The recorded opinions of the Government of 1822–23 are equally strong in my favour, and consequent exculpation. In reply to my letter of the 22d November, I was informed *—“ The Honourable the Governor in Council so fully concurs in all the opinions conveyed in your letter, dated the 10th November, to Major Ballantine, referred to in paragraph 6th, that he has only to request that his approbation of the tenor of that dispatch be communicated to the Political Agent, together with his wish that the steps suggested should be carried into effect as soon as possible. The Governor in Council likewise approves of your remarks in the succeeding paragraphs, &c. &c.” In reply to Colonel Ballantine's complaint against the strictness of my supervision over his administration, Government replied as follows†—“ Mr. Farish's dispatch of the 4th of January, in reply to Mr. Willoughby's of the 22d of November last, contains the decision of the Governor in Council on so many of the material points involved in the discussion with Major Ballantine, that it is only necessary to state, in reply to the first dispatch noticed in the margin, that the sentiments contained in Mr. Farish's letter remain unaffected by any of the observations in Major Ballantine's dispatch of the 5th January. Under this impression, the Governor in Council entirely approves of Mr. Willoughby's letter to Major Ballantine of the 21st of January. The remaining points in this discussion are brought into a narrow compass in Mr. Willoughby's letter to Major Ballantine of the 25th January ; and concurring, as the Governor in Council does, in the view generally taken of these questions by Mr. Willoughby, he has no hesitation in declaring the following items to be altogether inadmissible, &c.”

“ The Governor in Council regrets that Major Ballantine should have conceived the remarks made by Mr. Willoughby in the course of these discussions as in any degree reflecting on his motives. Considering the nature of our political connections at Baroda, it is evidently necessary that the reports of the Agent with the Mahee Caunta Tributaries should be laid before Government, with the observations of the Resident, before he communicates them to the Guicawar, or to wait for further explanations from the local Agent. The course of proceeding adopted by Mr. Willoughby was therefore quite correct ; and the utility of his observations has been shewn by their

* Mr. Secretary Farish's Letter, dated 4th January, 1823.

† Chief Secretary Newnham's Letter, dated 24th April, 1823.

"enabling Major Ballantine to clear up many points which were obscure in his first report. The whole of Mr. Willoughby's remarks are framed with great temper and moderation; and the Governor in Council is satisfied that he had no intention to reflect on Major Ballantine's motives, although he differed from him in some of his opinions."

Independent of the above, I possess no less than eleven letters of approbation, dated as per margin*, of my proceedings during the first period of my being in charge, five of which relate to the Mahee Caunta. One of these set at rest an annual claim to a large amount against the British Government, as follows:—"The arguments† embodied in your report, and the additional evidence which you have adduced, are, in the opinion of the Honourable the Governor in Council, decisive against the admission of the Guicawar claim to the Chowal Ghans Danna."

10. I think, notwithstanding the unfavourable opinion that, for some reason with which I am unacquainted, has been excited against me, his Lordship in Council will be constrained to admit that the above constitutes a mass of commendation of no ordinary description to be bestowed upon a young and inexperienced servant of Government, who had not at the time in question completed the fourth year of his servitude; and I feel proud in the reflection, that it proceeded from the Government of the Honourable Mountstuart Elphinstone, without exception, the ablest and the most enlightened that ever administered the affairs of this Presidency. Deeply do I feel the unmerited humiliation of being called upon, eleven years afterwards, to defend myself from the charge of having, during the very period when such praise was bestowed, been a negligent and inefficient servant of Government; but the public records cannot be effaced, and they abound with ample matter for my vindication.

11. I now come to the second period of three months and seven days, which occurred a little more than three months after the first. Surely I may ask whether, stimulated to future exertions by praise like the above, a man, who I feel has, to the sacrifice of his own peace and comfort of mind, been invariably too ardent and zealous in the performance of his public duties, was likely to lapse into the degrading character assigned to me in your letters to the Commission and myself of the 8th of March last. Jealous as every public servant should be of his official character, I hope to be excused coming forward in my own praise, when it is in my power to produce the strongest evidence of having established a character, on the very points and periods in question, exactly the reverse of that which is given to me in those letters; and I can never cease to remonstrate against the injustice of any part of my conduct being made the shield or palliative of such a system as prevailed in the Mahee Caunta.

12. It will occur to his Lordship in Council, that the discussion of Colonel Ballantine's accounts having been brought to a termination on the receipt of Mr. Newnham's letter of the 24th of April, 1823, containing the final decisions of Government on all the points at issue between the Residency and the Agent, the field for further discussion and supervision on my part was much narrowed during the second period of my coming into charge of the Residency. I beg, however, to refer to Mr. Newnham's letters of the 19th of June, and 15th of July, 1823, to prove that, on the only occasions during this period, when supervision over Colonel Ballantine's acts became necessary, I exercised it to the public advantage: I consider, however, that, unless I am able to relieve myself from your censure, the letters of the 8th of March last will destroy the character for zeal and diligence it has been the whole

1. 3d December, 1822, "approves."	7. 23d January, 1823, "approves."
2. 16th " " "entirely approves."	8. 23d " " "approves."
3. 2d January, 1823, "approves."	9. 31st " " "approves."
4. 6th " " "concurs in my views."	10. 4th February, " "approves."
5. 17th " " "approves."	11. 7th " " "general concurrence."
6. 21st " " "approves."	

† Vide Letter from Government, dated 7th February, 1823.

business of my life in India to acquire, and which has been accorded to me by two preceding Governments, and on various occasions by the Honourable the Court of Directors. In part, therefore, to establish that I am not the idle and inefficient person represented in those letters, I beg to state that I possess no less than sixteen letters of approbation, received from the Government of the time being, for proceedings which took place during this period. I give their dates in the margin* ; but I consider it only requisite to quote one of them, which is deserving of greater weight, because it was an uncalled-for and voluntary declaration of the sentiments entertained of me at the time by Mr. Elphinstone's Government.—“The† Honourable the Governor in Council has had frequent occasions to acknowledge the high sense he entertains of the value of Mr. Willoughby's services; and deems it only necessary to add on this occasion, that the very satisfactory manner in which he has conducted the duties on his last mission to Rajpeemla, has fully confirmed the high opinion before entertained of him.” This praise was given in the second period embraced in the one year and ten months, during which I am declared, by the Government of 1834, to have been culpably remiss and neglectful of my public duties.

13. The third period of my being in charge was for only twenty-nine days; but even in this short period I received two letters of approbation‡ from Government, connected with the supervision I exercised over Colonel Ballantine. For about six months previous, the Resident had been in constant correspondence with the Agent, upon the very subject for which we are now jointly censured as having been remiss in our supervision, *viz.* his accounts generally, and the irregularity with which the Guicawar Tribute was collected. It devolved upon me to submit the whole of this correspondence to Government; and in my letter § doing so, I moreover actually brought under special notice a subject of importance, which in the 16th paragraph of your letter to the Commission is inferred never to have been reported upon at all, and which I shall again have occasion to refer to when I come to remark upon that letter.

14. From May 1824 to January 1825, Colonel Ballantine was absent at Bombay, as an evidence on Lieutenant Fenwick's trial. I came into charge of the Residency, for the fourth time, on the 28th of April, and continued in charge until the 20th November, 1825: during this period no reports connected with Colonel Ballantine's pecuniary transactions in the Mahee Caunta were received or discussed, and for a very good and sufficient reason—the Tribute did not this year become payable until Aswin Sood the 2d, or the 13th October, 1825. Here, however, I am also able to adduce proof of my watchful vigilance over the interests of Government. Colonel Ballantine, some time in 1824, applied for permission to entertain a few Bheels and Irregulars, to be employed against Dheerjee, the Chief of Wancaneer, and this was granted by Government. On the strength of this general permission, he sent in abstracts for one hundred and fifty men of each class, thereby incurring an expence at the rate annually of about 36,000 Rupees:—a reference to the letters quoted in the margin|| will shew, that it was

• 1. 20th May, 1823, “approves.”	9. 19th June, 1823, “general approbation.”
2. 22d “ “ “approves.”	10. 19th “ “ “sanctions a proposal.”
3. 22d “ “ “approves.”	11. 21st “ “ “approves.”
4. 30th “ “ “approves.”	12. 21st “ “ “approves.”
5. 2d June, “ “entirely concurs in opinion.”	13. 27th “ “ “expresses satisfaction.”
6. 7th “ “ “approves.”	14. 9th July “ “expresses satisfaction.”
7. 12th “ “ “approves.”	15. 15th “ “ “approves.”
8. 14th “ “ “approves.”	16. 23d “ “ “vide quotation.”

† Vide Mr. Newnham's letter to the Resident at Baroda, dated 20th July, 1823.

‡ 1. 29th March, 1824, “approves.”—2. 6th April, 1824, “approves.”—Vide also Mr. Newnham's letter, dated 16th March, 1824.

§ *Viz.* of the 11th March, 1824.

|| Acting Resident to Government, 13th Oct. 1825.

“ “ “ “ 28th “ “

Chief Secretary to Acting Resident, 25th Oct. 1825.

“ “ “ “ 18th Nov. “

in consequence of my representations, that this useless expence was discontinued. The mercenaries were discharged after a trial of twelve months, during which period no mention is on record of their services, except on one occasion, when they were reported by the Agent to have disappointed him. Independent, however, of this instance of careful supervision on my part, I possess seven letters* of approbation of my conduct during this period. In one of these the satisfaction of Government was communicated, on the receipt of "the luminous statements furnished by Mr. Willoughby of the present condition of the Guicawar's finances;" and in order still further to shew that I do not deserve the character assigned to me in your letters under reply, let me refer his Lordship in Council to the voluminous correspondence which during the same period took place between the Political Agent at Pahlunpore and myself on a very difficult question, viz. that of the Rahdunpore succession. In this we took opposite views of the question, and mine were finally adopted by Government. In further vindication of the unmerited obloquy cast upon me, I may be here permitted to introduce the following striking proof that I do not deserve the character assigned to me by the present Government; but, on the contrary, though usually overwhelmed with official duties, I endeavoured, to the best of my humble abilities, to make myself useful on a subject totally unconnected with those duties. It is contained in the following letter† to my address, from Mr. Greenhill, acting Secretary to Government in the Judicial Department:—

"The Honourable the Governor in Council, having received from Mr. Warden the result of your enquiries on subjects treated of in Sir Thomas Strange's Elements of Hindoo Law, has directed me to inform you, that, considering the other important duties on which you have been so constantly engaged, this enquiry is highly creditable to your zeal and assiduity towards rendering a work as perfect as practicable, which, when completed, must prove so useful to the administration of Justice in India."—In reference to this letter, I beg to observe, that it must be regarded as another spontaneous declaration, on the part of Mr. Elphinstone's Government, that my character is exactly the opposite of what I am described to be in your letters of the 8th of March last. The enquiries adverted to were not official; but the results were made so, and recorded without my knowledge, and without any expectation, on my part, that they would have been deemed worthy of such notice.

15. With respect to the last and longest period of my charge of the Residency, although the whole of it is comprehended within your censure, I beg to observe that one-third of it must in justice be deducted; because, from the beginning of October until the 7th of January, 1828, Colonel Ballantine was altogether absent from the Mahee Caunta. I must, however, take the liberty to observe, that nothing can so strongly mark the little discrimination that has been exercised, in this period being selected as one of those to which your censure for negligence and remissness on my part applies. If there is a period of my life to which I can refer with pride and satisfaction, as abounding with proofs of my unwearied industry and diligence in the zealous discharge of my official duties, it is this; and if his Lordship in Council will be pleased to refer to the records of this period, he will find that they contain the most flattering testimonials from Government of my conduct throughout the whole of it. Questions of the first political importance came under discussion; and although, in the ardour and zeal with which, notwithstanding the opinion of his Lordship in Council to the contrary, I will be bold to say I have ever displayed in the performance of my public duty, I delivered my sentiments in support of the weak against the strong, and in maintaining the good faith of the British Government, with a warmth

* 1. 26th July, 1825, Letter of high approbation from the Honourable Court of Directors.
2. 16th August, 1825, "entirely approves."
3. 30th " " "expresses satisfaction."

4. 30th September, 1825, "entirely approves."
5. 24th " " "entirely approves."
6. 11th October, " views with great satisfaction.
7. 10th December, " vide quotation.

† Dated 12th July, 1826.

and eagerness requiring to be checked and moderated by the cool sagacity and mature experience of the eminent personage who then presided over this Government, almost one of the last acts of the Honourable Mountstuart Elphinstone was to record "the high sense entertained by Government of my ability, zeal, and indefatigable labour in promoting the general interests of the Public." The letter from which the above is extracted is dated the 29th of November, 1827, and two days after, Mr. Elphinstone delivered over charge of the Government to his successor. When, in addition to this, I am able to state that I possess no less than *thirty-six* letters of approval of my proceedings during this period, the dates of which are given in the margin,* and that nine of these expressly relate to my supervision over the Mahee Caunta Agency, can his Lordship in Council feel surprised that I feel most deeply injured when I see all these flattering records of my services are, as it were, cancelled by the declaration of the present Government, that during the period I obtained them, I was a remiss and negligent servant?

16. It may, perhaps, be observed, that the praise I allude to in the preceding paragraph, partially refers to matters totally unconnected with the Mahee Caunta Agency; but I may remark, that one who is able to produce, as I have done, such substantial proofs of general diligence and application, is not likely to have been guilty of the culpable negligence imputed to me in the discharge of any portion of an important public duty, his supervision of which in particular had gained for him at different times distinguished approbation. Fortunately, however, my justification does not rest on this presumption, strong as it must be acknowledged to be; and great will I say must be the prejudice I have excited, when a very voluminous correspondence which occurred between me and Colonel Ballantine, on this occasion of my being in charge of the Residency, has been entirely overlooked, although the same expressly relates to matters embraced in your censure. This is to me the more inexplicable, because this correspondence is constantly referred to in the discussions that have taken place connected with Colonel Ballantine's accounts, and the whole of it was recorded † on the Commission's proceedings. In proof of this, I beg to refer to the ninth paragraph of my Report of the 20th of September, 1828—a Report, the writing of which I could not by any possibility have avoided, but to which alone is to be attributed the singular and unprecedented predicament I am placed in—visited with the severest censure of Government for remissness, although I have been the means of recovering 50,000 Rupees and upwards of the public money that had otherwise been lost for ever; and although by a decision, emanating from the same authority, my opponent is declared convicted of having on various occasions rendered fraudulent accounts, and of having violated his official oath:

* 1. 3d May, 1827, "approves."	18. 20th Aug. 1827, "approves."
2. 3d " " "approves."	19. 28th " " "approves."
3. 5th " " "entirely concurs in opinions."	20. 8th Sept. " "general approbation."
4. 12th " " "approves, and entirely concurs."	21. 11th " " "approves."
5. 21st " " "general concurrence."	22. 11th " " "approves."
6. 22d " " "entire concurrence, with judicious observations."	23. 14th " " "approves."
7. 29th " " "my arrangements very judicious."	24. 14th " " "general approbation."
8. 29th " " "approves."	25. 15th " " "approves."
9. 5th June, " "entirely approves."	26. 20th " " "approves."
10. 9th " " "approves."	27. 28th " " "concurs."
11. 9th July, " "approves."	28. 1st Oct. " "approves."
12. 17th " " "approves."	29. 8th " " "approves."
13. 5th " " "general approbation."	30. 9th " " "approves."
14. 19th " " "expresses high satisfaction."	31. 12th " " "general approbation."
15. 24th " " "approves."	32. 23d " " "entire approbation."
16. 13th Aug. " "approves."	33. 29th " " "vide quotation."
17. 17th " " "entire approbation of the zeal and intelligence which have marked my proceedings."	34. 13th Dec. " "approves."
	35. 18th " " "entire approval of my conduct."
	36. 20th " " "entire approbation."
	37. 3d Jan. 1828, "approves."

† Vide Exhibit 69, C. P.

instead of receiving the just protection and support of Government, by the simple publication of its decisions on charges which Colonel Ballantine had himself made public, the invidious task being imposed upon me of throwing myself on the Public, as the only means left to me of relieving myself from the infamy which Colonel Ballantine has endeavoured to attach to my character, for fearlessly discharging my duty; and, lastly, a colour and weight being given to his charges, by its being stated in a document*, that will be widely disseminated, that "all the inconvenience that has been entailed upon "Government and the Service," in consequence of the investigation of Colonel Ballantine's conduct, is to be attributed to my culpable and inexcusable negligence. In the paragraph cited of the above Report, his Lordship in Council will find the dates of no less than twenty letters given, as having been written on the very subjects I am now censured for having, between the 11th April, 1827, and the 7th January, 1828, overlooked and disregarded; but as these will be more particularly alluded to when I come to reply to the first specific instance of neglect imputed to me, I shall here content myself with merely a general reference to that correspondence.

Having now vindicated myself, generally, from the severe reflection that the controul I exercised over Colonel Ballantine, during the one year and ten months I was Acting Resident at Baroda, "was far less vigilant and efficient than my public duty required," I proceed to offer such reply as I am able, to the specific instances of neglect set forth in your letter. I am first informed, that his Lordship in Council considers that the recent investigation at Ahmedabad has rendered it "quite clear" that I knew that Colonel Ballantine was transacting his business in the Mahee Caunta Agency in a "loose way." In reply, I beg to state that it was usual to transmit to Government copy of every letter of importance, either received from, or written to, Colonel Ballantine; and not having the records of Government to refer to, I am not aware, to the best of my recollection, of this rule having ever been departed from. Hence it follows that, as the supervision over Colonel Ballantine's administration vested in the Residency, was not that of personal examination and visitation, the Governments of the time being possessed as much information of that officer's proceedings as I did; and it rested with them, and not with the Residency, to apply a remedy for the deficiencies but too manifest in the Reports the Agent submitted of his administration, and which were finally noticed† by the Honourable Court of Directors. On the principle, therefore, adopted by Government (erroneous as I humbly conceive it to be), of excusing or palliating Colonel Ballantine's conduct, in consequence of the neglect of his superiors, I beg to claim, whenever I require it in the course of my Defence, similar excuse and palliation; because my superiors did not consider it expedient to adopt any more decisive measures than they did, to prevent the public interests from suffering "from the loose way" in which Colonel Ballantine conducted his business. I do not exaggerate when I state that, during the period I was attached to the Residency, many volumes of correspondence occurred between the Resident and myself with the Agent, the whole of which was transmitted to Government; and the orders received thereupon by us were uniformly obeyed: at all events, the contrary should be shewn before we are condemned. If, however, his Lordship in Council wishes it to be inferred that I knew, and knowingly and wilfully concealed, the existence of the dishonest and corrupt system which was proved by the Commission's investigations, to have prevailed in the Mahee Caunta—if, for instance, his Lordship in Council believes that my knowledge extended to the facts, that Colonel Ballantine mixed up his public and private pecuniary transactions, and that both are entered in the books of the Firm of Soonderjee Sewjee, withheld to this day—that from the commencement of his Agency he accustomed himself (as was proved‡ by an account he himself produced), in violation of his official oath, to lend loans to the Chiefs and Villages placed under his authority—that he had no intention of not finally accounting for the Mohsullee and interest he had admitted to be in his possession—and that the only

* Vide Letter to the Commission, dated the 8th March, 1834.

† Letter from the Honourable Court of Directors to the Bombay Government, dated the 31st December, 1829.

‡ Vide C. No. 10 of Appendix to his Report of the 7th of October, 1829.

reason he could assign for taking with him 24,727 Rupees of the former was, that he did so by "an unaccountable, though unintentional* mistake"—that the periodical accounts he rendered to the Residency, did not represent the true state of his pecuniary transactions, but, like those dated in June and October 1827, were fabricated, although they were acted upon by the Residency as true and faithful accounts—or that he applied for, and obtained, a grant of money in the name of the Tributaries, upon lists framed, as he stated, "after carefully comparing the same with the claim of the Zemindar;" and although he charged it in his accounts as applied accordingly, that he nevertheless applied the whole of it to another purpose, and the greater part of it to reimburse himself for alleged outlays from his own resources, the account of which, although acknowledged to be in his possession, he has to this day refused to produce—if, I repeat, his Lordship in Council supposes that the whole, or any one, of these legally proved facts came to my knowledge antecedent to Colonel Ballantine's removal from the Mahee Caunta, I hereby declare, in the most solemn manner, before God and man, that such a supposition is totally erroneous; and that, had they come to my knowledge, I should have instantly communicated them to my superiors, in like manner as I did when rumours were in circulation† at Baroda, highly prejudicial to Colonel Ballantine's reputation, and to the purity of the British character.

18. The first specific instance of neglect is, that I allowed a delay to prevail in the remittance by Colonel Ballantine of the Guicawar's dues, and that I failed to call him to account for this delay. To relieve myself from this censure, it is only necessary to prove that this delay did not originate with the Residency; and that it was frequently brought to the notice both of the Agent and of the Government for the time being. As early as August 1821, the Resident required the Agent to honour the Guicawar's drafts on the Tribute "as early as possible, that the Guicawar may have no reason to complain of any infraction of our engagements." The correspondence, of which this letter formed a part, was forwarded ‡ to Government; and "its tenor was approved of" in a letter, dated the 1st September, 1821. In the month of October § of the same year, the Resident informed the Agent "that he was very desirous of learning from him whether there was any probability of his being able "to realize the arrears of the Mahee Caunta Ghans Danna within a few months." In April 1822, the Resident required from him detailed accounts of his collections; and in September following addressed him thus:—"It would appear particularly desirable that His Highness the Guicawar should "never have any just cause to complain of the non-fulfilment on our part of an arrangement which "you are aware was with considerable difficulty concluded with him; and I have therefore to "request your early attention to the present representation." This was transmitted to Government on the 6th of September. In the 7th and 8th paragraphs of this letter I have quoted a voluminous correspondence, which occurred from October 1822 to January 1823, between the Agent and myself, proving that I instituted such a strict supervision over Colonel Ballantine's financial proceedings, as to induce him formally to complain against me to Government. In February 1823, the Resident was called upon by Government to report "upon the degree of punctuality with which our engagements "with His Highness the Guicawar had been observed, and to state the causes of any failure, and the "best means of remedying the same;" and he obeyed the call on the 6th of May. On the 5th of May of this year he required from the Agent a statement "of the sums paid to the Paricks of the Guicawar, "on account of the Tribute; specifying the dates, and accompanied by their receipts." In this letter originates a very voluminous correspondence with Colonel Ballantine, which I presume has not been consulted by Government, as it contains the most decisive evidence against the justice of the Residency being censured for want of vigilance and careful supervision. In || September 1823, the

* Vide Colonel Ballantine's Report of October, 1829.

† Vide my Reports to Government, dated in August, 1827; 20th November, 1831; and the 10th and 26th July, 1833.

‡ Vide Resident's Letter, dated 20th August, 1821.

§ Viz. on the 27th.

|| Viz. the 11th.

Resident addressed Colonel Ballantine as follows :—" I am requested by His Highness to remind you "that the arrears for ¹⁸⁷⁷A. D. 1820-21 and ¹⁸⁷⁸A. D. 1821-22 are still unrecovered, and that the whole of the Ghans "Danna for S^t ¹⁸⁷⁹A. D. 1822-23 is due; and that the amount settled by you to be paid by the Villages situated "within the Byeel and Kurree Purgunnas, is stated by this Government as not having been yet "realized. I shall therefore be obliged to you to cause the realization of all these sums to be made "as speedily as possible, in order that the engagements we have contracted with the Guicawar, to "recover with punctuality his Tribute, may be strictly adhered to. The Guicawar has felt much "annoyance at the loss experienced in the Mahee Caunta, from the many abatements he has been "obliged to make, in consequence of the impoverished state of the Chieftains; and therefore wishes "that the remaining portion of the Tribute should be regularly recovered." This was forwarded to Government on the 18th of October, and was embodied in my reply to Colonel Ballantine's Defence on the fourth Charge, recorded on the Commission's proceedings. In reply to this communication, the Agent endeavoured * to maintain that the Tribute was not, as stated, then due; which required the Resident to prove † the contrary, by referring to the Bonds specifying the dates on which the Tribute became due. This he did in a letter of fourteen paragraphs, which, calling forth a rejoinder from the Agent‡, was followed by another of eighteen paragraphs from the Resident§. The following passages from this last communication directly apply to the point under discussion :—" The evident "necessity that exists for having the subject (*i. e.* that of the Guicawar's rights in the Mahee Caunta) "clearly and satisfactorily explained to His Highness, will plead my excuse for again entering into "some detail."—" I regret to be obliged to trouble you with such tiresome details; but *in the hope of* "closing this correspondence, which has already lasted upwards of a year, I must request your atten- "tion, &c. &c." The letter concluded thus :—" I beg you to believe that I am solely actuated by a "desire to render the accounts received from you, of the Mahee Caunta Tribute, clear and satisfactory "to His Highness; and this will account for the length of this letter." As stated in the 13th para- graph of this Defence, it devolved upon me to forward the whole of the above correspondence, with requisite remarks, to Government, in the month of March 1824||. About two months subsequent to this, Colonel Ballantine visited Baroda; and, in personal communication with the Guicawar Govern- ment, adjusted his accounts, and many disputed points connected with them. He then proceeded to Bombay, and continued absent from the Agency until the beginning of 1825. In this year I was in charge for six months; but no discussion arose respecting the Tribute, because it did not become payable until a short time previous to my being relieved. I was not in charge of the Residency during any part of 1826; independent of which, on the 17th October, 1825, I had myself been pro- moted to the situation of a Political Agent in the Pawaghur Punchmahals, which required me to be absent from Baroda for a considerable period, and of necessity removed much of the detail business in the Resident's office from my superintendence. In this year, moreover, Colonel Ballantine again visited Baroda, and was in communication with His Highness the Guicawar; and as the Tribute was paid direct to his Paricks at Sadra, and as the Guicawar made no complaints, the Resident had no reason to suspect the existence of irregularities at Sadra, but much reason to hope that the volumi- nous correspondence which had occurred in former years, had produced the desired beneficial effect. The records of 1827 contain abundant proof of the careful vigilance of the Residency over Colonel Ballantine, on the very point to which the censure I am replying to refers; the whole of which proof, I must again repeat, was recorded¶ on the Commission's proceedings. On the receipt of Colonel Ballantine's annual accounts of his collections and payments for S^t ¹⁸⁰²1825-26, on the 15th of February, 1827, the Resident called ** upon him to report, "whether the Talookdars did pay on the 2d Aswin "Sood (3d October, 1826), their amount of Tribute, according to agreement; on failure of which, they

* Vide his Letter, dated 25th September, 1823.

† Vide Letter of the 8th October, 1823.

‡ Dated 27th October, 1823.

§ Dated 17th December, 1823.

|| Vide my Letter, dated the 11th of March.

¶ Exhibit 69, C. P.

** Vide his Letter of the 23d February, 1827.

"doubtless would be liable to a demand for interest upon the arrears. A period of five months has, "elapsed since the Guicawar ought to have received his Tribute; and it is particularly vexatious the "delay, as you are aware that it was with great difficulty His Highness assented to the change of the "period of payment, at your reiterated recommendation; one of the chief advantages of which, held "forth to the Guicawar, was the punctual realization of the Tribute." The Agent, in his reply*, attempted to cast the blame of the delay on the Paricks stationed at Sadra. On the 11th of April the charge of the Residency devolved upon me, and on the 16th I transmitted the above correspondence to Government. On the 5th Colonel Ballantine reported that the Tribute was collected; and on the 16th I directed him to remit the amount, "with the least possible delay," to Baroda.—I must here digress, for the purpose of remarking that up to this period the Mahee Caunta Tribute was not paid through the Residency, but by the Political Agent direct to certain Bankers residing at Sadra, seventy miles distant from Baroda, authorized to receive it on account of the Guicawar Government. Under this system the supervision of the Residency was not of such a nature as was calculated to detect and put a stop to the delinquencies which have ultimately come to light. It was only when Colonel Ballantine's accounts were received, or when the Guicawar complained, that the Resident possessed information upon which to act; for he had not, and could not have had, any direct communication with the Paricks at Sadra. Hence I contend that, in order to convict me of the remissness and neglect of duty imputed to me, one or more occasions should be pointed out, during the various periods I was in charge, wherein, possessing such information, I omitted to call the Agent to account. For the system of supervision under which I acted, neither the Resident nor myself can be held responsible. It was adopted by Government on the conclusion of the Treaty of 1820, at the request of the Guicawar, and was prescribed for the guidance of the Residency. Experience, however, having satisfied the Guicawar, that under this system great delays occurred in the Tribute reaching his Treasury, at his request (and he alone was competent to effect the alteration) it was abandoned; and the Agent was directed†, as above stated, to remit the amount to Baroda.—On the 27th of April I transmitted to Government the correspondence which had occurred, "respecting "the non-realization of His Highness the Guicawar's Tribute for S! ¹⁸⁸² A. D. 1825-26, at the prescribed "period," in a letter of nine paragraphs; in which I stated it to be my opinion, that the Agent's explanation of the delay was not satisfactory. In reply I was informed‡, "the Governor in Council "approved of my proceedings, and entirely concurred in the views which I had taken on the subject." In consequence of Colonel Ballantine paying no attention whatever to my order of the 16th of April, I was obliged subsequently to address § him as follows:—"I regret on this occasion to be under the "necessity of again calling your attention to the request of this Government, that the Tribute may be "remitted to Baroda. The delay in complying with this request is rather unaccountable, after the "correspondence which has taken place; more particularly, since you reported, on the 15th of February, "and again on the 5th of April last, that the Tribute was realized; and it is now upwards of a month "since I requested, on the part of this Government, that it should be remitted to Baroda with the "least possible delay. Under these circumstances, I am at a loss to assign any reason why His "Highness's dues should not have been sent by return of post." This was forwarded || to Government, with a suggestion that it would enforce my call upon the Agent to remit the Tribute; and accordingly, on the 1st of June¶, Government instructed me to require Colonel Ballantine "to explain "the delay in attending to the orders conveyed to him." The Agent explained**; and his explanation was forwarded by me†† to Government, with my opinion that it was by no means satisfactory: and in reply, I was directed to communicate‡‡ to Colonel Ballantine "the severe disapprobation of "Government at his delay in remitting the Tribute, especially after he had announced it to have

* Vide his Letter of the 26th February, 1827.

† 16th April, 1827.

‡ Vide Mr. Newnham's Letter, dated 12th May.

§ Vide my Letter, dated 23d May.

|| Ibid.

¶ Vide Chief Secretary's Letter of that date.

** 10th June, 1827.

†† 23d. June, 1827.

‡‡ Vide Mr. Newnham's letter of the 11th of July.

“been realized.” Thus am I able to shew, not only that I did call Colonel Ballantine to account for the delay which occurred in the remittance of the Tribute; but, further, that on my reports he was severely censured by the Government of the time being. The Tribute, which was the subject of the above correspondence, was finally remitted on the 20th, and its receipt reported to Government on the 25th of June.—My supervision over Colonel Ballantine’s measures connected with the Tribute did not, however, even rest here. His accounts for 1826 having been submitted, according to custom, to the Guicawar Government, sundry objections were taken to them previous to admission. I communicated these to the Agent in a letter* of nine paragraphs; and in the eighth I observed—“I cannot avoid availing myself of this opportunity to call your particular attention to the necessity of your remitting the amount of His Highness the Guicawar’s dues for S¹ ¹⁸²³ A. D. 1826-27, on or about the 2d of “Aswin Sood, or the 23d of September next;” and I forwarded this communication to Government on the 17th of August. In his letter to Government of October 1829, Colonel Ballantine alludes to this letter, and designates the warning it contains as “intimidation,” which compelled him, as he further states, to raise a loan on his private credit, to the enormous amount of 98,000 Rupees; but how this loan was raised, or how it was subsequently recovered, has never to this day been explained. Be this as it may, the utility of the warning was made manifest, by my receiving two remittances to the above amount—the first on the 15th, the second on the 29th of September—which were duly paid to the Guicawar; and my correspondence with the Agent ceased, in consequence of his proceeding under the orders of Government to Surat.

19. If the above summary, derived from public records, is not sufficient to exculpate the Resident and myself from the first specific instance of neglect imputed to us, I must abandon my Defence in despair. When I am thus able to quote such decisive proofs that, however ineffectually, we did all in our power to compel Colonel Ballantine, by frequent calls and remonstrances, to perform the chief of the duties entrusted to him, surely I am justified in expressing my deep concern and regret that his Lordship in Council could not have discovered some other cause for extenuating his conduct except by our inculpation. Can his Lordship in Council but suppose that the coldest and most phlegmatic heart could do otherwise than feel the injustice of his censure?—This censure is bestowed on no ordinary occasion, and has given rise to impressions that all parties connected with the case are alike to blame:—it is bestowed in lieu of the only recompence I could have expected for the obnoxious duty I have performed—the approbation (in addition to that of the “still small voice within”) of Government, in confirmation of that previously bestowed upon me by the Government of 1830, for undergoing not a hundredth part of the labours and mental anxieties I underwent during the eleven months I was at Ahmedabad officiating as a Public Prosecutor. I feel confident, however, my regrets can only last for the time, if the task of undeceiving the community is left in my own hands; and I am sanguine that the High Authorities, to whom they must in the end be submitted, will, on a calm and unprejudiced review of my conduct, afford me redress, and not allow the impression to go abroad, that what was once remarked upon by an enlightened Ruler of this country as a creditable characteristic of the services of India, should be no longer deemed so; but that he who is bold enough to exhibit “an intolerance of peculation committed by a brother servant,” should be held up to obloquy and reproach, and punished with censure and disgrace.

20. The second instance of neglect I am to reply to is, that I did not call on Colonel Ballantine to account, from 1822 to 1827, for the amount of Mohsullee and interest he was believed to have in his possession. His Lordship in Council must be familiar with the facts of the case; but it is necessary that I should recapitulate them in self-justification. On the 5th November, 1822, Colonel Ballantine addressed† me, as in charge of the Residency, to obtain instructions how certain realizations of Mohsullee and interest were to be disposed of. I referred the question to Government, who directed

* Dated 16th of August, 1827.

† Exhibit 29, C. P.

“that both the interest and Mohsullee already collected, should be paid to the Guicawar;” and I recorded * on the Commission’s proceedings, my original letter to Colonel Ballantine, endorsed by himself, as received on the 30th December, 1822, directing him to pay the money as ordered by Government. I may here observe, that if my conduct connected with these realizations, is to be judged by the rules recognized by Government, for the mutual guidance of the Resident of Baroda and the Political Agent in the Mahee Caunta, in their official intercourse with each other, all responsibility on my part regarding this public money ceased, after I had communicated the above order to the officer in whose possession it was; more especially when it is recollected that, soon after the issue of the order, I was relieved from the charge of the Residency:—in other words, it is unreasonable to censure me for not having done more than the Government of the time required or directed me to do. To fix responsibility upon me, and to convict me of the neglect imputed to me, evidence would be required, first, as to the money in question being actually entrusted to me; second, as to the manner in which the neglect occurred. The money was never in my charge; and the first I heard of it was by the Agent requesting orders how it was to be appropriated. The order of Government providing for its appropriation, did not at the same time evince any suspicion of the Agent’s honesty, by directing that he should be called upon to report its due execution, or to furnish an account of the money collected. The simple order, to pay the amount collected to the Guicawar, was evidently deemed sufficient by the Government who issued it; and surely, therefore, that I (our respective situations considered) should have deemed it sufficient also, is not matter of surprise; and consequently that no grounds exist, to fix upon me a charge of neglect, and far less of thereby holding me equally to blame for the loss of the money in question, as he who appropriated it to his own use. I may further remark, that I was never in charge of the Baroda Residency except as a *locum tenens*; from which I do not mean to claim to be excused for any want of due care, but merely to state, that one so situated is *pro tempore* to conduct the current business of the office, and not to intermeddle with, or alter the system he finds in force, except circumstances urgently call for alteration. It is not, moreover, usual that a superior officer should without cause entertain suspicions of the integrity of his subordinate; but when he issues an order, and more especially one relating to the disposal of public money in his deposit, it is natural for him to expect that it will be immediately obeyed. It should also be borne in mind that, up to March 1826, I had no grounds of suspicion against Colonel Ballantine; that Sadra, his head-quarters, was seventy miles from where I was stationed; that the money was not to be paid to or through me, but direct by the Agent to the Sadra Paricks; that whilst I was in charge, no complaints of non-payment were made to me; and that under the system of supervision vested in the Residency, I had no other means of ascertaining or enquiring into the Agent’s proceedings, except through the medium of his own reports. When all these circumstances are duly weighed, although I may perhaps be said not to have been quick enough to entertain suspicion of another man’s honesty, I feel quite confident the charge of neglect of duty cannot justly be attached to me. His Lordship in Council, however, appears to attach no importance whatever to the circumstance, that ultimately I made amends for any oversight I committed, by addressing Colonel Ballantine on the 16th August, 1827, as follows:†—“At the conclusion of the Memorandum, this Government requests you will forward a statement, exhibiting the amount of all collections made by you on account of Roz Mohsullee, during the period you have been in charge of the Mahee Caunta; that an account of the same may be rendered annually; and that all past and future collections under this head may be carried to its account: you will therefore be pleased to comply with these requests at your convenience.” Of what use was this, or any other requisition to Colonel Ballantine, when (although at this very time he had in his possession 24,000 Rupees and upwards of Mohsullee to account for) he replied‡ thus—“The item of Mohsullee adverted to in the ninth paragraph of your letter being confined to the expence of the Mohsul, as in Kattywar, may appear to require no other remark for the information of His Highness’s Government?”

* Exhibit 30, C. P.

† Exhibit $\frac{31}{B}$, C. P.‡ Exhibit $\frac{31}{B}$, C. P.

21. The third instance of neglect charged against me is, that I “suffered the Seerpao Grant to be disbursed in the way it was, without any enquiry made, or account demanded.” In order to render this censure deserved, it should have first been shewn that I was aware of the mode in which the grant was disbursed—that I had grounds for instituting any enquiry—and that I was called upon to require the account alluded to. It must be obvious that no man can be blamed for suffering a proceeding to take place of which he is in entire ignorance, because, in fact, he can be no party to such proceeding. How am I to blame in this instance? Colonel Ballantine, in October 1821, officially applies for, and, after a protracted negotiation, in May 1824 obtains an annual grant of 7705 Rupees for a specific purpose, and charges the same in his accounts as having been disbursed accordingly. No complaints are received previous to 1828, because the parties in whose behalf the grant was made, are kept in ignorance of its existence by the person who receives it, and whose duty it was to have communicated it to them. On the removal of this person, the fraud is discovered; the same is represented to Government; and the reward of the person who represents it, is to be told, that he is “the cause of all the inconvenience entailed upon Government and the Service,” by the investigation of Charges against Colonel Ballantine for offences alleged to have been committed ten years ago. In regard to no account being demanded, I beg to state none was required. The grant was obtained under a list, shewing how it was to be disbursed, which was reported by Colonel Ballantine to have been framed “after carefully comparing the same with the claim of the Zemindar.” This list was finally confirmed by the Guicawar, and rendered the disbursement of the grant what is usually called “a fixed disbursement,” requiring no periodical account or sanction, but merely a record to be kept by the disbursing officer, to be transferred to his successor, shewing that it had been disbursed accordingly. I am quite at a loss to conceive on what grounds his Lordship in Council is pleased to assume that I was aware that Colonel Ballantine, after having obtained the five years’ arrears of Seerpao, amounting to 38,535 Rupees, in the name of the Tributaries, transferred that sum to his own pocket, in compensation of previous outlays from his own resources, *to this day unproved and unsupported by the original account he acknowledges to be in his possession* ;* and that in like manner the three succeeding years’ Seerpao was not disbursed in the mode applied for originally, and subsequently charged in the Agent’s accounts. That I possessed all this knowledge, is of necessity implied in your censure; and I feel myself called upon, therefore, to declare, in the most solemn manner, and to state that I am quite prepared to ratify my declaration by an oath, that I was wholly and entirely ignorant of the misappropriation of the grant of 61,640 Rupees, until after I assumed charge of the Mahee Caunta in July 1828, soon after which it came to my notice, by the parties who had been defrauded of it petitioning me for the recovery of their rights.

22. The fourth and last specific instance of neglect is, that I failed to notice Colonel Ballantine’s neglect, in never forwarding periodical returns of his receipts and issues of Presents. In my letter of the 21st of March last I stated, that this was the only part of the severe censure passed upon me by Government, which I considered in any degree deserved. Certainly both the Resident, and myself, as far as a *locum tenens* can be deemed responsible for not amending the system he finds in force in an office of which he has only temporary charge, committed an oversight in not requiring these returns; which I think may in part be attributed to the circumstance that, in the first instance, Colonel Ballantine did not, as Political Agent, correspond with, or receive his orders through, the Baroda Residency, but direct from Government: accordingly he received orders from Government to keep these accounts, and subsequently took an oath that he would do so; and slight indeed I must say is the palliation, afforded by the oversight of the Resident and myself in not enforcing that order and oath, of his neglect in disregarding both, and of his failing (in the words of the eighth Charge) to deliver over to his successor any record of his receipts and issues of Presents. There are, moreover, several circumstances, entirely overlooked by Government, in aggravation of this neglect, to which this

* Vide his Report of the 7th October, 1829.

† Viz. on the 18th November, 1820. Viz. in February, 1821.

palliation, slight as it is, does not extend, and which I shall take the liberty to notice when I come to remark on your letter to the Commission of the 8th of March last.

23. Such is the Defence I have to offer against the censure passed upon me by Government ; and I feel sanguine I have fully redeemed the pledge contained in my letter of the 21st of March. I have selected the most difficult mode of shewing that, with one exception, I do not deserve this censure, by adducing the strongest testimonials of former Governments of the unwearied zeal and assiduity with which I have uniformly discharged my public duty ; almost the whole of which were obtained during the one year and ten months I am now adjudged by the present Government to have been negligent and remiss, and a very considerable portion of which expressly refers to the very duties I am stated during that period to have neglected. I have, in fact, shewn, as briefly as the case admits, what I did and performed during each period comprehended within your censure ; and have then defended myself from the four instances of neglect following that censure. In regard to the first of these, I have shewn that I actually did what I am censured for not having done ;—in regard to the second, that I did all that was required by Government, and by the rules and customs of the Service, supposing that all parties were honest men ; and that as soon as I found that Colonel Ballantine had not obeyed the orders issued to him, as far as related to the Mohsullee, I repeated those orders, which he dishonestly evaded ;—in regard to the third, that I was entirely ignorant of what I am censured for having suffered to take place ;—and to the fourth alone, do I plead in any way guilty.

24. His Lordship in Council will perhaps ask, if my supervision over Colonel Ballantine was of the strict nature I contend it was, how could such a corrupt system have prevailed in the Mahee Caunta without detection for several years ? To this I reply, that this circumstance is to be attributed to the system of supervision vested in the Residency, and prescribed by superior authority, and not to those who exercised it. That system was sufficiently effective to controul an honest man's acts ; but totally insufficient to prevent such unprecedented proceedings as those which Colonel Ballantine himself admits—such as unauthorizedly lending loans to Chiefs and Villages under his controul, at a large rate of interest—furnishing fictitious accounts to the Residency, acted upon by the latter as true accounts—applying for the Scerpao Grant on false pretences, under a list framed, he stated, “ after carefully comparing the same with the claim of the Zemeendar.”—I must assert, that acts like these could never have been discovered except by one of the three following modes :—First, by a system of espionage abhorrent to every honourable minded man, and which the general purity of the Service will in no case justify ; second, by the information or complaint of third parties ; third, as actually occurred, by the removal of the person who committed them. It is scarcely requisite to remind his Lordship in Council, that the Head Quarters of the Baroda Residency and Colonel Ballantine's Agency were upwards of seventy miles apart ; or to state, that during no period of his administration was the Resident, or myself when officiating for him, empowered to visit the Mahee Caunta for the purpose of exercising a personal controul and supervision over the Agent's acts. I may therefore state that, under such a system, more especially when the extensive discretionary powers, almost of necessity vested in a Political Agent, are considered, the only means which the Residency possessed of judging of the Agent's conduct and proceedings, was through the medium of his own reports, and could only extend to such part of his proceedings as the Agent thought fit to report ;—that over the proceedings embraced in these reports, the strictest supervision was invariably exercised—a fact which is undeniably proved by the intricate and voluminous correspondence which annually occurred between the two offices. The Residency did its best to correct the numerous errors and irregularities with which the Agent's Reports abounded, and endeavoured to make amends for his deficiencies ; but it was no part of our duty to pronounce, what was but too manifest, that he was quite incompetent to perform satisfactorily the duties of his situation. In one word, the controul vested in us was a *mere paper supervision*, quite sufficient for the ordinary purposes of Government, when integrity, the key-stone of

all, exists, but totally inadequate when corruption prevails. In regard to the general principle on which Government censures the Residency so severely, and, in a case like the present, most injuriously, I may remark, that it may well be doubted how far the *negligence*, if proved, of a superior officer should be held to justify the *dishonesty* of an inferior, though it may his negligence. The question as regards most of the Charges against Colonel Ballantine was of the latter nature: the pith of the accusations against him was not that he had simply *neglected certain duties*, being now ready, as far as was in his power, to repair his omission; but that he had studiously avoided and evaded accounting for the public money in his possession, designedly for his own benefit; and that he persevered in the same course, even before the Ahmedabad Commission; and the main objects of effecting his conviction were to force him to a fair account, and to a liquidation of the balance due from him—objects which he would not have failed to have forwarded himself, to the utmost of his power, had he been simply negligent; on which supposition alone, the negligence of his superior, even if admitted, could be allowed to avail him either as a justification or palliation. I by no means, however, admit that negligence can be justly imputed to the Residency; for, independent of the strong proofs already adduced, to shew a constant vigilance and attention on our part, I can, without having access to the records, from memory quote many instances in which the controul vested in us was beneficially exercised.—Who exposed and corrected the injudicious financial measures proposed by Colonel Ballantine for the re-establishment of the Edur State?—Who in like manner exposed the measures he adopted at Paal and Pol?—Who objected to the course of proceedings adopted against Dherejee?—Who exposed the want of prudence and mismanagement, which led to the loss of the baggage of a considerable Field Detachment placed at Colonel Ballantine's disposal?—Who suggested and carried into effect, contrary to the Agent's opinion, a reduction of one-third of Colonel Ballantine's extravagant establishment?—To all these questions, and many similar ones, I can answer, that either the Resident, or myself when officiating for him, did all this; and what, I may finally ask, but the data derived from the strict supervision exercised by the Baroda Residency, enabled the Honourable Court of Directors* to come to a conclusion, “that on a general retrospect of Lieutenant Colonel Ballantine's administration, from his appointment to the office of Agent in the Mahee Caunta, we see so much evidence of deficiency in many of the qualifications indispensable in such a situation, that we should have felt it our duty positively to direct his removal, had not that event already taken place?”

25. At the conclusion of your letter, his Lordship in Council is pleased to observe that he “cannot admit, as I would appear to think, that an invidious duty has been imposed upon me, since common justice demanded that I should be required to prove my accusations, before Government could hold Colonel Ballantine to be guilty.” Any one unacquainted with the facts of the case, would, from this remark, be led to suppose that I had volunteered to prefer accusations against Colonel Ballantine, instead of what is really the case—that they, as well as all the difficulties in which it has involved me, originated in my being called upon by superior authority to report upon two public accounts which that officer had rendered to Government. At the same time I cannot understand the reasoning upon which I am at one time told I am bound to prove my accusations, and at another time that† I have nothing to do with the enquiry, and that I ought not to feel any interest in the result; for that it was the same to me whether Colonel Ballantine is condemned to pay one lack of rupees, or only one rupee; as if my acquittal on the recriminatory charges that have for the last three years been in circulation against me, did not mainly depend upon that result, or rather on the universal opinion of mankind, founded of course upon its justice, that an accuser is to make good his accusations, or abide the consequences of calling in question an innocent man's character. Neither, I must say, can I admit the justice of Government in having practically acted upon the latter doctrine, by sending Colonel Ballantine to Baroda, where, in communication with the British Representative stationed

* Vide their Letter to the Bombay Government, dated 31st December, 1829.

† Vide Mr. Bax's Letter, dated the 27th August, 1833.

there, he obtains a verbal declaration from His Highness the Guicawar, directly contradicting two former written answers on the same subject—his own records and those of Government; upon which declaration Colonel Ballantine is acquitted upon one of the most important of the Charges preferred against him; whilst I, the person held responsible for proving the Charge, am not informed of such proceeding at the time of its adoption, or permitted to have any thing to say to it: a judicial verdict, principally founded on such extra-judicial proceedings, is, to say the least of it, most unprecedented, and by no means fair to me, as one of the parties materially involved in the issue. I think there are few who will concur in the opinion, that the duty I have been required to perform (for it never can be said to have been one of my own seeking) is not an invidious one; at all events, I can state, from bitter experience, that I have found it to be so, more especially when it has been attended with such results as have occurred to me. I never, however, for one moment doubted my responsibility until the receipt of Mr. Bax's letter above adverted to, and I have never shrunk from it: common justice, however, equally demanded that so long a period as three years should not have been allowed to elapse between the date of my accusations, and that on which the responsibility of substantiating them was exacted from me. Neither do I think it was quite fair that my inexperience in such a matter should have had to contend with the professional skill of a Barrister of the Supreme Court at the Presidency. Few can estimate the advantage which the delay gave to the accused; and had I not been more than ordinarily prudent in keeping a diary of my proceedings, I should (judging from the results which have actually occurred) have found myself placed in a most perilous situation, in consequence of the difficulty created by the delay in collecting the evidence and proofs upon which my accusations were originally founded—a difficulty which, in fact, I did experience to a very considerable extent. His Lordship in Council should, however, do me the justice to recollect, that when, after three years had elapsed, I was called on to substantiate what I had advanced against Colonel Ballantine, I did not, though advised to do so by some, attempt to decline the task. I received your letter, ordering me to proceed to Ahmedabad, under domestic circumstances of great mental anxiety, on the 15th of November, 1831; and on the 17th forwarded, as directed by Government, Charges against Colonel Ballantine to the Commission assembled at that place; designedly framing them on the letter I received from the Government of 1830, pronouncing him guilty of them, after he had evaded a judicial enquiry into his conduct. Shortly after I appeared before the Commission, and then for the first time learned that the Court before which I appeared, was not, as I had anticipated, one of honour and equity, but one of strict law and special pleading, in consequence of the employment by the Defence of a Barrister of His Majesty's Court at Bombay. To this I also submitted without a murmur; and, under every disadvantage, without a friend to consult or advise me, after a laborious enquiry, commencing on the 17th of December, 1831, and terminating the 12th of April, 1832, I obtained a unanimous verdict of guilty against Colonel Ballantine on every one of the Charges on which he was prosecuted*.—What could man do more—and what is my reward? Instead of meeting with the approbatory return I feel I deserve, I am visited with the severest censure Government could bestow, except on the supposition that I myself had been proved guilty of dishonesty and corruption; and am told by that Government for which I have laboured so hard, I have entailed upon Government, and upon the Service, the inconvenience of the recent enquiry into Colonel Ballantine's conduct:—I cannot trust my feelings to make any comment upon this.

26. His Lordship in Council having alluded to the responsibility which justly devolves upon every man who, whether of his own accord, or, as in my case, by compulsion, becomes the accuser of another, I feel myself at liberty to offer some remarks upon your letter to the Commission of the 8th of March last; more especially as information has reached me from Gujerat, inclining me strongly to the belief that the verbal declaration of the Guicawar, constituting the principal reason assigned by Government for acquitting Colonel Ballantine on the 7th Charge, was, as I long since predicted

* Vide your Letter to the Commission, dated the 8th March, 1834.

likely, obtained by unfair and improper means—or, in plain terms, that the declaration was obtained when His Highness was under the influence of fear and moral compulsion. My Defence would moreover be incomplete without these remarks, because your letter to the Commission is interspersed with observations exceedingly injurious to my character, both as a public Servant, and in one instance as Colonel Ballantine's Prosecutor; and in one part it is inferred that a subject was not reported to Government, although I can produce my own letter reporting it, and the Government acknowledgment thereof. Being, however, exceedingly anxious that this my Defence should not be delayed, I shall reserve my remarks for a separate letter. I beg respectfully to request that my Defence may be forwarded, and brought to the special notice of the Honourable Court of Directors as early as practicable. I am anxious that so much justice should be extended to me; because it would ill become me, and might justly lead to the conclusion I did not set sufficient value on their praise, were I without a struggle to forfeit the favourable opinions that High Authority has on various occasions been pleased to express regarding my official conduct and proceedings, borne out as I am by the most irresistible mass of evidence ever adduced. I feel that a man, who may be said to have lived in his office from the day he first entered the Service up to the present period, and to have denied himself the relaxation required by most men, cannot be justly charged with having neglected the interests of the Honourable East India Company, to the serious extent imputed to me in your letter now replied to.—It was my intention to have appended to this letter extracts from the many testimonials I possess, consisting of letters from the Honourable Court of Directors, letters and minutes of Government, and letters from my official superiors, to prove that, during the whole period of my servitude, my character has been the exact reverse of what it must be, if the censure I am visited with by the present Government, be true: I intend, however, to reserve these for another place and opportunity. The proofs I have adduced, for the most part refer to Mr. Elphinstone's Government, and to the one year and ten months comprehended in your censure, upon the very points on which it is now the pleasure of Government to rebuke me for neglect, and to hold me almost as culpable as he who has been convicted of actual dishonesty. I possess many equally strong ones obtained during that and the succeeding Government of the late lamented Sir John Malcolm; but it is unnecessary to produce them, because his opinion of me is placed beyond doubt by the simple fact that, with scarcely any other knowledge of me than that derived from my official proceedings and reports, he, without solicitation on my part (the first intimation I received of his intention being an official announcement* of my appointment), promoted me to one of the highest situations at the Presidency, to which my standing in the Service gave me no right to aspire; and, that I did not altogether disappoint his expectations during the seventeen months I filled it, the present Government, who now censure me, gave† me a pleasing memorial when I was relieved from it, to the effect, that “the Right Honourable the Governor in Council has viewed, “with great satisfaction and approbation, the zeal, industry, and ability displayed by you during the “period of your officiating as Secretary to Government in the Judicial, General, and Marine “Departments.”

I have the honour to be, &c.

RAJCOTE, 12th August, 1834.

(Signed) J. P. WILLOUGHBY.

N. B. There is a slight error committed in the 15th paragraph:—the Hon. M. Elphinstone resigned the Government of Bombay on the 1st of November, 1827; consequently the letter quoted was addressed to me by order of Sir John Malcolm's Government. This adds strength, however, to my argument; for, as the letter of the 27th of November was in reply to seven I had written, three of which bear date during Mr. Elphinstone's Government, the praise it conveyed is to be regarded as accorded by his and Sir John Malcolm's Government combined.

* Vide Mr. Chief Secretary Norris's Letter, dated the 16th October, 1829.

† Vide Mr. Bax's Letter, dated 15th April, 1831. I beg also to refer to Sir John Malcolm's Minute, dated the 30th November, 1830, and Mr. Romer's Minute, dated the 20th March, 1831, recorded on their respectively resigning the Government.

No. 1432.

POLITICAL DEPARTMENT.

BOMBAY CASTLE, 12th September, 1834.

SIR,

I am directed by the Right Honourable the Governor in Council to acknowledge the receipt of your letter, dated 10th ultimo, defending your conduct in regard to the proceedings adopted against Colonel Ballantine, and to acquaint you that your letter will be sent by the first opportunity to the Honourable Court of Directors:—at the same time his Lordship in Council instructs me to signify to you, with reference to the 17th paragraph of your letter, that Government never for a moment supposed that either you or the Resident were aware of any of the facts alluded to, antecedent to the removal of Colonel Ballantine from the Mahee Caunta, nor that either* of you knew any thing of the alleged misappropriation of the Seerpao Grant, until the circumstance was reported to Government.

2d. With reference to the 26th paragraph of your letter, stating that it is your intention to offer remarks on the letter from Government to the Commission, I am directed by the Right Honourable the Governor in Council to acquaint you, that this forms no part of your duty, and cannot be permitted. You should strictly confine yourself to your own Defence: you have no right whatever to comment on the decision of Government in a case reported by a tribunal of which you were not a member. The acts of this Government, I am finally directed to state, are not submitted to any of its own officers for their remarks, but are sent home for the decision of superior authority.

I have the honour to be, &c.

(Signed)

W. H. WATHEN,
Secretary to Government.

To J. P. Willoughby, Esquire, &c. &c. &c.

(True Copies) J. P. WILLOUGHBY, B. C. S.

I.

Appendix C.

No. 352.

POLITICAL DEPARTMENT.

To W. J. LUMSDEN, ESQUIRE... *President.*

J. H. PELLY, ESQUIRE, and }
CAPTAIN RANKIN } *Members,*

*of the Commission which investigated at Ahmedabad the Charges brought against
Colonel Ballantine by Mr. Willoughby.*

1 of 3d Aug, 1832.
2 of 4th " "
1 of 6th " "
1 of 8th " "
1 of 9th " "
1 of 10th " "
1 of 13th " "
1 of 16th " "

GENTLEMEN,

1st. I am directed by the Right Honourable the Governor in Council to acknowledge the receipt of your several letters of the dates specified in the margin, forwarding your report and proceedings on the case of Colonel Ballantine.

* How is this assertion to be reconciled with the remark contained in the 23d paragraph of the Government Letter to the Commission, dated the 8th of March, 1834?—"It is proved that Colonel Ballantine did make presents; and if he did not properly appropriate the grant of Rupees 7705 per annum, the Resident must have known it, unless he was far more careless and negligent of his duty than the Governor in Council believes to have been the case."—J. P. WILLOUGHBY.

2d. The Charges brought against Colonel Ballantine are as follow :—

For dereliction of duty in the following instances :—

First—In proceeding to the Presidency, on being appointed to the command of the troops in Candeish, at the commencement of 1828, without giving his successor the opportunity of entering into an examination of the accounts of the Office he vacated ; such being a violation of the rule prescribed by Government, in a circular issued to him, in common with the Service generally, in August 1824.

Second—In failing to deliver over to his successor the records of his Agency in a complete and perfect state.

Third—In failing to deliver over account books, the keeping of which must have been essential to the due and faithful discharge of his duties ; and some of which, from the evidence of persons on his establishment, are known to have existed.

Fourth—In furnishing his successor, the Resident at Baroda, the Accountant General, and Government, with irregular, inconsistent, and incorrect accounts, the result of which is far more favourable to his pecuniary interests than could have been exhibited by correct and true accounts.

Fifth—In having appropriated to his own use a considerable sum of money, collected by him from the Tributaries in the Mahee Caunta, under the denominations of Mohsullee and interest ; and in having levied Mohsullee beyond what was required as compensation for the Mohsul, after the orders of Government, forbidding such excess, had been communicated to him.

Sixth—In having unauthorizedly levied, without any account rendered, various collections in the Sadra Bazar.

Seventh—In having received from the Guicawar, or, which was the same thing, deducted, in his accounts with the Guicawar, from the Tribute of the Mahee Caunta, during a period of eight years, a sum of Rupees 7705 per annum, on account of Seerpao or Presents to the Chiefs, on payment of their Tribute, and not having disbursed it in the way intended ; but, on the contrary, having converted it, either wholly or in part, to his own benefit.

*Eighth**—In not rendering an account of the ordinary receipts and issues of Presents received and issued by him, in his official capacity as Political Agent in the Mahee Caunta during a period of about eight years ; and not delivering over any record of the same to his successor.

3d. On the 4th and 7th Charges references have, I am directed to inform you, been made by Government to His Highness the Guicawar through the Political Commissioner ; and Colonel Ballantine has been deputed to Baroda, in order that it might be seen whether his accounts with the Guicawar might not thereby be satisfactorily settled. On the question, generally, of Colonel Ballantine's accounts, no conclusive information was by this means acquired ; but, as regards the Seerpao Grant, His Highness stated, on the 13th May, 1833, in the presence of Colonel Ballantine and Lieutenant Colonel Burford, and on the 16th May, 1833, in Colonel Burford's presence, that his intention, when he made the Seerpao Grant, was, that it should be expended in presents to the different Chiefs, Sirdars, Camavisdars, Carcoons, &c. who might wait on Colonel Ballantine on duty, or to any respectable native who should pay him a visit ; and that he never required or expected any account of it.

4th. I am further directed to state to you that, in consequence of Colonel Ballantine having objected to the proceedings of the Commission, in having stopped him in the middle of his Defence, the 4th Charge,

and the Exhibits connected with it, together with your proceedings thereon, were referred to Mr. Borrodaile, with instructions to examine carefully the accounts and documents; and report, as a matter of account, what, if any thing, Colonel Ballantine was bound to pay; and that Mr. Borrodaile's report has been received by Government.

5th. His Lordship in Council, having now had under his review your report and proceedings, the information obtained from His Highness the Guicawar, and Mr. Borrodaile's report, has directed me to communicate to you, as follows, his decision on each Charge, and the reasons on which it is founded.

FIRST CHARGE.

6th. His Lordship in Council differs from you in your finding on the *First Charge*; because, as it appears that Colonel Ballantine officially delivered over charge to Mr. Hornby on the 17th of February, 1828, and as that gentleman, on the 22d of the same month, reported himself to the Resident as having taken charge, he had ample time, being Colonel Ballantine's Assistant, and in the Mahee Caunta, to have joined him before the 16th of March, 1828. Colonel Ballantine was not, the Right Honourable the Governor in Council considers, bound to wait for him; and his conduct cannot, in the opinion of Government, be considered suspicious in this respect, for he must have been aware that, had he given in fraudulent accounts, his departure for the Presidency, which you seem to think precipitate, just *one month after* he had officially resigned his office to his Assistant, could not have saved him from an examination of the accounts afterwards. His Lordship in Council also thinks that, as the application to visit the Presidency was made by Colonel Ballantine through the Resident, on the 22d of January, 1828, and as the permission of Government was conveyed to him by the Resident on the 14th of February, 1828, it is quite impossible to consider Colonel Ballantine's departure for Bombay, on the 16th of March, 1828, precipitate. The Resident must have known that the accounts were of a complicated nature:—when he forwarded, on the 14th of February, 1828, to Colonel Ballantine the permission of Government to visit the Presidency, he should on the same day have directed Mr. Hornby to join Colonel Ballantine, in order that his accounts might be examined, and receipts passed, agreeably to the circular of Government; and this does not appear to have been done.

7th. His Lordship in Council further remarks, that little formality appears ever to have been observed in the transfer of the Mahee Caunta Office from one officer to another; and Mr. Hornby, who was to receive charge, never appears to have interested himself on the subject, which evinces a confidence and approbation in him of all being right. Colonel Ballantine, after giving over charge, remained a month in Gujerat; and surely afforded in this time sufficient opportunity for him to have adopted every measure necessary to ensure a due delivery. Mr. Hornby had been more than once in charge, and had he imagined any difficulty, would have acted differently.

8th. On the above grounds the Right Honourable the Governor in Council is pleased to acquit Colonel Ballantine of the first Charge.

SECOND AND THIRD CHARGES.

9th. It appears to the Right Honourable the Governor in Council, that when Colonel Ballantine's successor, Mr. Hornby, received the accounts, instead of adopting the extraordinary proceeding of weighing them (which was of little avail, as he has forgotten the weight), he should have taken a list of the documents, which would have prevented much of the present discussion. If deficiency existed in the accounts or records, it would have been noticed and reported at the time by Mr. Hornby. His not having taken steps to satisfy himself of this, if actually the case, betrays very blameable conduct. The nature of the accounts must have been familiar to Mr. Hornby, from having been frequently in charge;

and though regular accounts of every matter were not delivered, as they had not been officially kept, there is not sufficient evidence to shew that such as did exist, were not at the call of Mr. Hornby : even the small books, subsequently sent to Bombay, were until then, so far as is known to Government, in a situation to be handed over to Mr. Hornby, should he have asked for them. Under the circumstances, therefore, of Mr. Hornby's negligence, Colonel Ballantine is entitled to all the advantage to be derived from the fact, that the records and accounts were five months unexamined, and out of his charge, before Mr. Willoughby made a list of them at Baroda ; and it was undoubtedly the business of your Commission to investigate the state in which Colonel Ballantine delivered his records to Mr. Hornby, his successor, not that in which Mr. Hornby delivered them to Mr. Willoughby, five months afterwards.

10th. His Lordship in Council cannot concur with you in affording considerable credit to the evidence of Soobaram Mujmoomdar ; on the contrary, he thinks that it bears strongly the appearance of a made-up story : and the Right Honourable the Governor in Council is the more impressed with this idea, from his not communicating to Mr. Hornby, and particularly to Mr. Willoughby, what he states passed between him and Nanjee and Jairam, Colonel Ballantine's Carbaries at Ahmedabad ; and it is manifestly impossible to rely on the accuracy of Soobaram's statement, from memory of the accounts missing. It is here, too, worthy of remark, that this man states he could examine all the papers of the Office, and separate those he was to take with him to Mr. Hornby, in two or four days at Ahmedabad ; but that it occupied him from fifteen to twenty days to examine the small portion he took to Mr. Willoughby at Baroda, although assisted by Mr. Williams's Native Agent, and these were only good-for-nothing papers.

11th. Without meaning to impeach the integrity of Natives, generally, the Right Honourable the Governor in Council believes that he is not wrong in stating, that when one is called by a man in official power to give evidence against another who has lost it, such evidence should be received with the greatest caution ; and the manner in which the written interrogatories were put to the Portuguese at Baroda, (the man being, as he states, ill at the time, and bewildered by the Carcoons) speaks, in the opinion of His Lordship in Council, much against the whole evidence ; for though the Right Honourable the Governor in Council acquits Mr. Willoughby altogether of having in any way attempted to manufacture evidence, he cannot avoid coming to the conclusion, that both Soobaram and the Carcoons were satisfied they were meeting the views of their employer in the course they pursued.

12th. The Right Honourable the Governor in Council dissents from your opinion, that no account books were delivered over by Colonel Ballantine to his successor, there being no evidence to prove what was or what was not delivered to Mr. Hornby, who was Colonel Ballantine's successor, and not Mr. Willoughby ; and his Lordship in Council is of opinion, that as Mr. Hornby did not think proper to take the trouble to examine the records delivered to him, as he ought to have done, Colonel Ballantine is exonerated from responsibility on account of the deficiency discovered by Mr. Willoughby.

13th. His Lordship in Council is therefore pleased to acquit Colonel Ballantine of the second and third Charges.

FOURTH CHARGE.

14th. There can be no doubt, I am directed to state, that Colonel Ballantine was bound to keep accounts ; and the Right Honourable the Governor in Council entirely agrees with you as to the complex and anomalous nature of those submitted to you. After a minute examination of the accounts which Colonel Ballantine has produced, the Governor in Council has resolved that he shall pay the balance shewn in the following account, framed on a careful examination of the only accounts which he has produced.

Dr.

THE HONOURABLE COMPANY IN ACCOUNT CURRENT WITH

No. 1.	To the amount paid into the Treasury of the Baroda Resident	5,300	-	-	
	Ditto Ditto Ditto	201	-	-	
					5,501 - -
2.	To the amount paid to the Guicawar on account of Collections through the Baroda Resident, viz.				
3.	Remitted by Bill or Hoondie	98,000	-	-	
4.	Amount of Ghaus Danna of Malpoor	301	-	-	
5.	Purosan	400	-	-	
			701	-	-
	Ghaus Danna of Posra to Edur		70	-	-
					98,771 - -
					B. 3
6.	To the amount of Ghaus Danna of Baroda				455 - -
7.	To the amount of expenses incurred on account of Gun Lascars for Ammunition, Tent, &c. by order of Bappoo Turnaves				930 2 25
8.	To the amount of further payment into the Treasury of the Baroda Resident, as per Statement, viz.				
	Jumma, as per Contra	20,859	3	25	
	Ditto, Ditto	6,693	3	-	
					27,553 2 25
9.	To the amount recoverable from the Kamavisdar of Kurree, for the amount overpaid for Durruckdar's Dustoorce				369 - -
10.	To the amount of payment made by Colonel Ballantine on account of Sulkee	262	2	17	
	Add amount recredited by him	41	2	39½	
	Amount originally claimed by Colonel Ballantine in his amended Statement.....				304 - 56½
11.	To the amount advanced to the following Persons—				
	Chumpavut Dirjee	11,947	1	68½	
	Vagotlah Prithiraj	1,222	2	50	
	Thakoor Jullam Sing of Bhuderva	4,145	2	-	
	Maharana	105	1	50	
	Jamadar Hamud Khan	341	3	75	
					17,762 3 43½
	To amount brought down	1,51,647	-	50	
	Add Balance due by Colonel Ballantine	20,719	2	75	
					1,72,366 3 25
12.	To the amount of outstanding Balance made over to Mr. Hornby, nett Balance admitted by Colonel Ballantine	20,719	2	75	
	Balance claimed by him, hereby admitted as forming part of the outstanding Balance	1,603	-	37½	
	Total Balance, as per Contra				22,322 3 12½
13.	To amount of Presents received by Colonel Ballantine	40,795	2	43½	
	Deduct value of twenty-nine articles sold.....	2,255	-	-	
	Value of articles in hand	2,909	-	-	
	Ready Money ditto	1,289	3	87½	
			6,453	3 87½	
					34,341 2 56½
14.	To the amount of nine Horses of Presents, died				980 - -
	Carried over.....Rupees				2,09,241 2 18½

LIEUT. COL^L. BALLANTINE, LATE POLITICAL AGENT IN THE MAHEE CAUNTA.

Gr.

	GHAUS DANNA.	TOTAL.	GHAUS DANNA.	JUMMA BUNDER.	TOTAL.	
By the amount of Jumma and Ghaus Danna—						
Zella Myhee Caunta			5,300 - -			
Purgunna Sowlee			201 - -		5,501 - -	
Ditto Bhuyal, viz.			5,501 - -			
Sometrye	95 - -					
Dhuborah	636 - -	731 - -				
Baroda	455 - -					
Sulkee.....B 1.	333 - -	788 - -				
			1,519 - -	20,859 3 25	22,378 3 25	
Naneo Marwar			15,500 - -		15,500 - -	
		Total Jumma	22,520 - -	20,859 3 25	43,379 3 25	
By amount Collections thereof Mahee Caunta						
Ditto Purgunna Sowlee			5,300 - -		5,300 - -	
Ditto Bhuyal			201 - -	D		
Ditto Bhuyal			788 - -	12,626 - 62½	13,414 - 62½	
Naneo Marwar, viz.						
Corporation of Morassa.....	600 - -					
Malpoor	300 - -					
Purosun	400 - -					
	700 - -	1,300 - -				
Bhuyal		841 3 50	2,141 3 50	B 2.	2,141 3 50	
		Total Wussool	8,430 3 50	12,626 - 62½	21,057 - 12½	21,057 - 12½
By Balance recoverable made over to Mr. Hornby—						
Lohar			- - -	18 - -	18 - -	
Sometrye			95 - -	428 - -	523 - -	
Baroda			- - -	818 3 25	818 3 25	
Lihora.....			- - -	1,832 3 -	1,832 3 -	
Dhuborah			636 - -	4,158 - 93½	4,794 - 93½	
Hurruckjeina Mowara			- - -	222 3 25	222 3 25	
Wutwah			- - -	69 3 56½	69 3 56½	
Angollah			- - -	685 - 62½	685 - 62½	
			731 - -	8,233 2 62½	8,964 2 62½	
Naneo Marwar, viz.						
Mojoh Byhur.....	9,198 - 50					
" Gammut	1,000 - -					
" Chocld	1,000 - -					
" Demye	1,000 - -					
" Derobe	400 - -					
" Hemdramano	400 - -					
" Amodra	400 - -					
		13,358 - 50			13,358 - 50	
			14,089 - 50	8,233 2 62½	22,322 3 12½	22,322 3 12½
By the amount of further Jumma, on account of Jumma bundy of Bhuyal Purguna						
					6,693 3 -	
				Carried over....Rupees	50,073 2 25	

THE HONOURABLE COMPANY IN ACCOUNT CURRENT WITH

		Brought over.... Rupees	2,09,241 2 13
	To Balance due to Government, carried down		36,353 1 36
			2,45,594 3 50
No. 15.	To amount difference arising in Balances of Accounts erroneously stated, more or less, on giving charge to Mr. Hornby, under date the 16th March, 1828, Putil Gungadas, &c. of Mojeh Duborah.....	470 - -	
	Chumpavut Dharjee	8 1 12	
	Vagula Prithceenj	1,750 1 98	
	Thakoor Jullum Sing of Bhuderwa	157 3 13	
	Maha Ramee of Ditto	10 3 30	
	Total here debited, but reccredited, as per Contra		2,397 1 33
16.	To the Prosecutor's Sixth to Ninth Items, namely deduction from the Guicawar's Dues during seven years, on account of the Ahmednuggur Raja of the Items for Malpoor and Purosun, as the Raja denies receipt thereof.....	4,907 - -	
	Ditto, Ditto, for the next three years	2,103 - -	
	Total debited to Government, as satisfactorily explained by Colonel Ballantine		7,000 - -
17.	To the amount claimed by Colonel Ballantine for his Sadra Buildings, as a set-off.....	50,000 - -	
18.	Realization made by Mr. Hornby of part of the outstanding Balances admitted by the Prosecutors.....	1,152 - -	
	Total.....	51,152 - -	
19.	Deduct realization made by Mr. Hornby, since Colonel Ballantine has received credit for the full amount of outstanding Balances made over to Mr. Hornby, by debiting Government with it in Balance recoverable, made over to Mr. Hornby	1,152 - -	
	Nett Balance claimed as an offset by Colonel Ballantine		50,000 - -
20.	To amount disbursed by Colonel Ballantine for Presents given during eight years, as per his account current of Presents disallowed and reccredited, as per Contra		1,24,615 1 12
21.	To the Prosecutor's thirteenth Item, being amount of Interest levied from Mojah Sulkee		625 2 7
	To Balance due to the Honourable Company by Colonel Ballantine		50,294 2 6
			Rupees 2,34,943 - 0

APPENDIX.

71

LIEUT. COL^L BALLANTINE, LATE POLITICAL AGENT IN THE MAHEE CAUNTA. *Er.*

		Brought over....Rupees	50,073	2	25
	By the amount of Interest levied from the Talooka Ahmednuggur		16,529	-	25
	By the amount of Ghaus Danna—				
	Amount realized for Dr. Side	1,06,476	-	-	
	Balance due	A. 2,698	-	-	
			1,09,174	1	-
	By the amount due from Mojeh Baroda for Sunvut 1822	C 2. 2,496	-	37½	
	Ditto Ditto Angollah	C 1. 1,798	3	37½	
			4,294	3	75
	By the amount of Presents received by Colonel Ballantine		40,795	2	13½
	By the amount of Moossulla levied from several Jagheerdars, &c. being the Prosecutor's Twelfth Item	11.	24,727	1	80
			2,45,594	3	56½
	By Balance due to Government, brought down		36,353	1	30
No. 11.	By the amount of Payment made by Colonel Ballantine on account of Sulkee,* as per Debit Side is inadmissible		304	-	56½
12.	By the amount advanced to the following Persons, as per Debit Side inadmissible—				
	Chumpavut Dhirjee	11,947	1	68½	
	Vaghela Prithiraj of Pithapoor	1,222	2	50	
	Thakoor Jullum Sing of Bhaderwah	4,145	2	-	
	Maharance of Ditto	105	1	50	
	Jamadar Hamud Khan	341	3	75	
			17,762	3	43½
16.	By amount acknowledged to have been received from Baroda, but for which Credit is not allowed to that Village, as was required	470	-	-	
	Additional Advances to the following—				
	Chumpavut Dhirjee	8	1	12½	
	Vaghulla Prithiraj of Pithapoor	1,750	1	98	
	Thakoor Jullum Sing of Bhaderwah	157	3	13	
	Maharance of Ditto	10	3	30	
			2,397	1	53½
	Total recredited as inadmissible				
17.	By the Prosecutor's Sixth to Ninth Items, namely, a Deduction from the Guicawar's Dues during seven years, on account of the Ahmednuggur Raja, as the Raja denies receipt thereof	4,907	-	-	
	Ditto Ditto for the next three years	2,103	-	-	
			7,010	-	-
	By the amount recovered from the Raja of Ahmednuggur, as an advance made to him by Colonel Ballantine		5,874	1	22
22.	By the Prosecutor's Thirteenth Item, being amount of Interest levied from Mojeh Sulkee		625	2	79
18.	By the amount claimed by Colonel Ballantine on account of his Sadra Buildings	50,000	-	-	
	Deduct amount allowed by Government, as admitted by the Prosecutor	10,000	-	-	
			40,000	-	-
	Balance of the Claim recredited as inadmissible				
21.	By the amount claimed by Colonel Ballantine on account of Presents given by him during eight years, recredited as inadmissible		1,24,615	1	12½
		Rupees	2,34,943	-	05

NOTES, SHEWING HOW THE ITEMS BROUGHT FORWARD BY MR. WILLOUGHBY, HAVE BEEN DISPOSED OF
IN THE FOREGOING ACCOUNT.

	AMOUNT CREDITED.	ITEMS.	FULL AMOUNT OF PROSECUTOR'S CLAIM.	AMOUNT DISALLOWED.
A.	2,698 1 -	Balance of Account.—This Item is Mr. Willoughby's 1st Item, and is fully credited	2,698 1 -	
B 1.	* 333 - -	Remissions to Sulkee and Bhyl, corresponding to two of the three Items		
B 2.	2,141 3 50	which composed Mr. Willoughby's 2d Item, which amount to	2,929 3 50	
B 3.	2,474 3 50	Disallowed, being admitted in favour of Colonel Ballantine as a remission to Baroda.....		455 - -
C 1.	1,798 3 -	Amount due from Baroda and Angollah for 1882.—These are two of the four Items which compose Mr. Willoughby's 3d Item, which amounts to	5,134 - 06½	
C 2.	2,496 - -	Disallowed, being kept out of the account :—		
	4,294 3 -	Balance from Baroda for 1878 Rupees 624 - -		
		Balance from Sumatrye for 1883..... 215 1 6½		
D.	In this Item of Rs 12,626 0 02½ is included Collections from Baroda for 1883	839 1 6½		839 1 6½
	is 2,132 1 12½	Corresponding with Mr. Willoughby's 4th Item, which is therefore fully credited	2,132 1 12½	
E.	731 - -	Claimed by Colonel Ballantine as remissions to Sumatrye and Dhuborah, but disallowed to him as such, and consequently credited against him ; corresponding with one of the three Items which composed Mr. Willoughby's 5th Item, which amounts to	1,880 1 12½	
		Disallowed to the Prosecution, being admitted in Colonel Ballantine's favour, and kept out of the account against him :—		
		Remissions to Baroda for 1882 25 3 75		
		Ditto ditto 1883 1,123 1 37		
		1,149 1 12½		1,149 1 12½
F.	5,874 1 22	Amount recovered from the Raja of Ahmednuggur, on account of an advance made to him :—this was the full amount claimed on this account, which is therefore fully credited ; but this Item was substituted for the Prosecutor's original 6th, 7th, 8th, and 9th Items, and which amounted collectively to Rupees	7,010 - -	
		So that there is disallowed		1,135 2 78
G.	16,529 - 50	Amount Interest levied from the Raja of Ahmednuggur, corresponding with Mr. Willoughby's 10th Item, which is therefore fully credited	16,529 - 50	
		Prosecutor's 11th Item, being the Scerpao Charge, is wholly disallowed..	61,640 - -	61,640 - -
H.	24,727 1 88	Mohsullee, corresponding with the Prosecutor's 12th Item, which is therefore fully credited	24,727 1 88	
		The Prosecutor's 13th Item, Interest due from Sulkee, is disallowed, and kept out of the account against Colonel Ballantine	625 2 79	625 2 79
Total credited.. Rs. 59,462 - 22½				65,844 3 76
Add disallowed .. 65,844 3 76				
Rupees 1,25,306 3 98½		Rupees	1,25,306 3 98½	*

FIFTH CHARGE.

15th. With respect to this Charge, his Lordship in Council thinks that, as there is a certain ambiguity in Colonel Ballantine's letter to Mr. Willoughby, dated the 5th of November, 1822, Colonel Ballantine should have the advantage of the doubt which may possibly be stated as to the meaning of his expressions ; but in his letter to Mr. Williams, dated the 20th of September, 1823, he clearly admits a certain amount realized, under the head of Mohsullee and interest in the preceding three years, for which he says the Government (Guicawar) will receive credit ; and Mr. Farish, in his letter to Mr. Willoughby, dated the 16th of December, 1822, by order of Government, directs that the interest and Mohsullee then collected shall be paid to the Guicawar. As regards interest due to the Guicawar, on account of delay in paying the Tribute, it will, however, be observed that no actual amount under this head is found among the items enumerated under the Fourth Charge, as those for which Colonel Ballantine is judged by Government to be responsible ; so that Colonel Ballantine's liability, as regards interest previously to 20th September, 1823, can be carried no further than is above specified.

16th. It does not appear to the Right Honourable the Governor in Council that there is sufficient proof to convict Colonel Ballantine of the charge of having, subsequently to 1823, kept back the Guicawar's Tribute, and to make him liable for interest on the amount so kept back ; for if there was an unauthorized change in the period at which the Tribute was originally payable, Mr. Williams, the Resident, who allowed it, is just as much to blame as Colonel Ballantine ; and if the Tribute was not realized, and paid with punctuality to the Guicawar, the Political Agent is not the only culpable person. The irregularity noticed by the Resident, and now charged by Mr. Willoughby against Colonel Ballantine, should at the time have been reported to Government, when an enquiry would have been made, and the real state of the case ascertained ; but his Lordship in Council cannot see upon what principle of justice Colonel Ballantine alone can now be called upon to pay interest on collections realized by him many years ago, irregularly perhaps, but with the knowledge of the Resident. If the Guicawar has any demand against the Government on this head, which his Lordship in Council doubts exceedingly, Colonel Ballantine's superior, Mr. Williams, is, the Right Honourable the Governor in Council considers, equally liable for it.

17th. The Right Honourable the Governor in Council cannot help remarking, in reference to this Charge, that if, on the receipt of Colonel Ballantine's letter of the 5th of November, 1822, Mr. Willoughby, the Assistant in charge of the Baroda Residency, believed that officer to have realizations on account of interest to a considerable amount in his hands, he should have called on Colonel Ballantine for a full statement of the same, and reported his having done so to Government *before* he was relieved from his charge of the Residency ; and the Resident ~~was~~, his Lordship in Council considers, equally culpable in allowing these supposed realizations to remain unaccounted for until the month of August, 1827 ; a negligence on the part of these Public Officers which the Governor in Council cannot, from the documents before him, excuse, and which has entailed upon Government, and upon the Service, the inconvenience of the late investigation of Charges against Colonel Ballantine, for offences alleged to have been committed ten years ago.

18th. As regards Mohsullee, an item under that head, amounting to Rupees 24,727. 1. 83, will be found among those for which Government adjudges Colonel Ballantine to be liable. But the Right Honourable the Governor in Council does not, I am directed to state, consider Colonel Ballantine to be more to blame, as regards disobedience of the orders of Government of the 16th December, 1822, than the Resident at Baroda, and the other officers subordinate to him, who appear equally to have disregarded those orders.

SIXTH CHARGE.

19th. The Right Honourable the Governor in Council, I am directed to state, differs from you in your finding upon this Charge ; and, for want of evidence against Colonel Ballantine, on every principle of justice acquits him.

SEVENTH CHARGE.

20th. Upon this Charge the Right Honourable the Governor in Council differs, I am directed to state, from you in your finding, and is pleased to acquit Colonel Ballantine, and to declare him not liable to be called upon for any payment on the head of Seerpao, for the following reasons :—

First—The explanation given by His Highness the Guicawar of his intention in making this grant, as stated in the 3d paragraph of this letter.

Second—The fact of Colonel Ballantine having been in the habit of making presents previously to his acquiring the Seerpao grant.

Third—The circumstance of the Resident having suffered the payment of Rupees 38,535, on account of five years' Seerpao, to be made by the Guicawar to Colonel Ballantine without offering any objection ; which is to be taken, his Lordship in Council considers, as an acquiescence in the system which Colonel Ballantine had till then pursued with regard to the giving of presents, and as a justification for its being continued ; together with the fact of the Resident, or Acting Resident in charge, having found no fault with Colonel Ballantine on this head during the whole of his management of the Mahee Caunta ; and having made no enquiries, and called for no accounts, to ascertain how he had disbursed the grant.

Fourth—The fact of the Tributaries having made no complaint previously to 1828, six months after Colonel Ballantine's departure from the Mahee Caunta.

21st. Upon the preceding grounds the Right Honourable the Governor in Council is pleased to acquit Colonel Ballantine of this Charge, and to decide that, up to the date of his leaving the Mahee Caunta, the Seerpao grant shall be deemed to have been duly applied ; and if the amount ought to have been disbursed only to the Chiefs, their Carbaries, and securities at the period of settling their Tribute, the blame of the irregular disbursement rests on all the parties concerned—on Mr. Williams, Mr. Willoughby, and Colonel Ballantine. Mr. Williams was Resident during the whole time, and from October 1822 to January 1828, Mr. Willoughby had four several times charge of the Residency, for a period in all of one year and ten months ; and it was the duty of these officers, as Colonel Ballantine's superiors, to have assured themselves of the due disbursement of the Seerpao grant, which during the whole period they never troubled themselves to do.

22d. The correspondence which took place between the Baroda Residency and Colonel Ballantine on the subject of the Seerpao grant, and particularly Mr. Williams's letter of the 19th August, 1823, connected with the fact of Colonel Ballantine's having given presents previously, leads the Governor in Council to think that the amount had by him been paid, irregularly beyond a doubt ; but paid by him, his Lordship in Council believes it was. In the first place, the Governor in Council thinks it extremely improbable that His Highness the Guicawar would have given so large a sum at once to the Agent ; and the Guicawar's replies to Colonel Ballantine's queries lead to the presumption that the concession was a

sum to reimburse that officer for the expences incurred for Seerpao in the preceding five years. But even if there was nothing more than Colonel Ballantine's own assertion that he had made these presents, he cannot now, in the opinion of Government, with any justice be called upon to account for this sum. The time for calling him to account for its expenditure was when it was granted ; and as no doubt was then expressed by the Resident of the correctness of Colonel Ballantine's assertion, it cannot now be questioned. His Lordship in Council conceives that Mr. Williams, having been aware of the transaction, should have demanded the account in January 1826, when, as appears in Exhibit No. 35, it was paid by the Guicawar. His Lordship in Council cannot help, therefore, admitting the force of Colonel Ballantine's remark, when he says—" If upon expectation or an understanding that I should render accounts " without order, why did not the Resident call for these accounts yearly *before he passed or allowed me the yearly grant*, or monthly, or at any other stated period?" Such long-continued and often-repeated omissions on the part of the Resident, if they argue negligence on his part, certainly claim the indulgence of Government to the accused, taking into consideration the loose manner with which it is but too evident all parties conducted themselves ; and that the granter of the Seerpao, the Guicawar, has given him what the Governor in Council must consider a release.

23d. With respect to the Seerpao for the three succeeding years, it does not appear to Government that Colonel Ballantine exercised more than the discretion usually vested in Residents and Political Agents, and that the list could only have been considered by the Guicawar as a general estimate. It is proved that Colonel Ballantine did make presents ; and if he did not properly appropriate the grant of Rupees 7,705 per annum, the Resident *must* have known it, unless he was far more careless and negligent of his duty than the Governor in Council believes to have been the case.

24th. I am, however, at the same time directed to signify to you, that the Governor in Council severely condemns the conduct of Colonel Ballantine, in having made out of his private funds the payments to be made by the Seerpao grant, during the first five years for which it was conceded, without reporting to Government that he had done so ; and having effected his reimbursement in the way he did.

EIGHTH CHARGE.

25th. Upon this Charge the Right Honourable the Governor in Council, I am directed to state, finds Colonel Ballantine guilty ; as he was bound by the orders of Government, and the oath which he took, to keep and render an account of all presents given and received by him. In palliation, however, of his conduct, his Lordship in Council is bound to admit that the loose way in which Colonel Ballantine transacted his business was, in some respects, to be attributed to the negligence of the Resident ; who knowing, as he must have known, that Colonel Ballantine gave and received presents, ought undoubtedly in each year to have required an account of them. Mr. Williams's memory is so very defective when examined on this Charge, that the Governor in Council cannot attribute any importance to his evidence.

26th. His Lordship in Council perceives that you do not consider Colonel Ballantine's witnesses entitled to credit. The Right Honourable the Governor in Council, I am directed to state, sees no reason for supposing that the Native evidences on the part of the Defence are not just as much entitled to credit as those brought forward by the Prosecutor. Indeed, when his Lordship in Council considers the respective situations of the two—the one in power, and the other a man on his trial—he should be almost more disposed to place confidence in the evidence given by a Native in Colonel Ballantine's favour, than against him ; and in reference to the hesitation stated by you to have been observable on the part of some of the Native evidence produced by the Defence, when the Governor in Council considers the

timid character of the Hindoo race generally, and that these witnesses were giving evidence in favour of a man on his trial, and in refutation of the assertions of one ordered to prosecute the accused by Government, he is not at all surprised that apprehension and hesitation should have been manifested.

27th. I proceed now, under the directions of Government, to advert to the subject of your letters of 23d April and 8th May, and 7th, 9th, and 13th June, 1832, regarding the closing of your proceedings in the month of April 1832. His Lordship in Council, I am directed to state, highly disapproves of that act, and considers, further, that in your investigation you departed from the line of conduct laid down by Government for your guidance, in the following instances :—

First—In arresting the Defendant in the midst of examination of one of his witnesses, for no other apparent purpose but that of introducing documentary evidence on the part of the Prosecution ; thereby depriving Colonel Ballantine of the legal facility of examining his witnesses, besides being in direct opposition to his written appeal.

Secondly—In not allowing the Defendant the opportunity of cross-examination in the same manner, by written interrogatories, as the evidence produced by the Prosecutor ; but at once closing your proceedings, because the reply of the Defendant, relative to obtaining the accounts of Soonderjee Sewjee's shop, was not such as you expected. His Lordship in Council is, I am directed to state, at a loss to conjecture, from the papers before him, how you could come to the resolution of recording that Colonel Ballantine had refused positively to produce the Banker's accounts ; because Colonel Ballantine stated that he had no power over the Firm, and that they might produce their books if they thought fit ; and because his Lordship in Council cannot consider the documentary evidence of Hiansraj Jaita (a partner in the shop of Soonderjee Sewjee) so conclusive as at once to say that Colonel Ballantine's permission was all that was required for the production of these accounts. There is an evident unwillingness on the part of the evidence to produce them at all ; and the Defendant's permission, on which you lay such stress, is coupled with the *orders of the Sircar*, which it is evident he thinks cannot be disobeyed. The following are the remarkable words of the evidence :—“ These books I cannot shew ; and about shewing, “ if Colonel Ballantine's permission should come to hand, and the *Sircar* should give orders, “ I will shew them. I should be about helpless, because this shewing is not the custom of us “ Bankers.”

28th. Though, as above recited, his Lordship in Council holds Colonel Ballantine acquitted as regards the 1st, 2d, 3d, 6th, and 7th Charges, and partly as regards the 5th Charge, the sentiments of the Right Honourable the Governor in Council are, I am directed to state, far from favourable to Colonel Ballantine. The keeping back the seven account books, as proved by his own witnesses, Nanjee and Jairam, must be considered a most suspicious circumstance ; and his not at once ordering the production of his accounts kept by the Firm of Soonderjee Sewjee, must strike every person that there is something in them which Colonel Ballantine is afraid to shew. The Right Honourable the Governor in Council cannot conceive any guiltless man labouring under such imputations, not being anxious to produce every document calculated to throw light on the subject ; and if there was an unwillingness on the part of the partner in the Firm to produce the accounts without the orders of the Sircar and of Colonel Ballantine, there was a very decided disinclination on the part of the latter to allow them to be shewn ; leaving on the mind of the Right Honourable the Governor in Council by no means a favourable impression of his principles, which renders it impossible for his Lordship in Council to say that he can consider Colonel Ballantine altogether an innocent man.

29th. The preceding decisions and remarks have been communicated to Colonel Ballantine and Mr. Willoughby. The dissatisfaction of Government has also been communicated to Mr. Williams and

Mr. Willoughby, at the negligence betrayed by them in not having called Colonel Ballantine to account, for the loose way in which it is quite clear they knew he was transacting his business; but Mr. Willoughby has at the same time been assured that, with nothing but the vague assertions of Colonel Ballantine against him, Government sees no reason whatever to doubt the purity and honesty of his intentions and conduct, in regard to the Charges brought by him against Colonel Ballantine.

30th. Copies of the letters addressed to Mr. Willoughby and Colonel Ballantine are herewith transmitted.

I have the honour to be, &c.

(Signed) CHARLES NORRIS, *Chief Secretary.*

BOMBAY CASTLE, 8th March, 1834.

(True Copy.)

(Signed) C. NORRIS, *Chief Secretary.*

2.

No. 357 of 1834.

POLITICAL DEPARTMENT.

To Colonel F. D. Ballantine.

SIR,

1. I am directed by the Right Honourable the Governor in Council to transmit to you the accompanying copy of my letter of this date, to the Gentlemen who composed the late special Commission at Ahmedabad, before which you were arraigned on the Charges brought against you by Mr. Willoughby, conveying the decisions and sentiments of Government on the several Charges on the proceedings of the Commission; and, generally, on the transactions which came under review: a copy of my letter of this date to Mr. Willoughby is also enclosed.

2. From the former communication you will perceive that the Right Honourable the Governor in Council has acquitted you of the 1st, 2d, and 3d Charges;—that the 4th Charge is considered by his Lordship in Council to be proved;—the 5th proved, as regards the circumstances of your having in your possession a large amount of the public money, under the head of Mohsullee, and of your having admitted, on the 20th September, 1823, that you had in your hands Mohsullee and interest, accumulated during three years' management;—that on the 6th Charge you are acquitted, no evidence having been produced;—that you are acquitted on the 7th Charge, the Governor in Council being of opinion that you did in fact disburse the amount of the Seerpao Grant in presents—that His Highness the Guicawar was satisfied with the mode in which it was disbursed—and further, that, as the Resident at Baroda maintained silence during the period of your management, he is precluded from now objecting to the system which was followed;—and, finally, that the 8th Charge is proved, though your misconduct in this respect is much palliated by the neglect of the Resident at Baroda, and the Assistant in charge, to call upon you for the monthly accounts of presents, which you were bound to furnish.

3. Upon the subject of the 7th Charge, the Right Honourable the Governor in Council directs me to signify to you that, although he refrains from calling you to account for the amount received by you

L

on account of the Seerpao Grant, he severely condemns your conduct in having, out of your own funds, made the payments on account of Seerpao, previously to the concession of the grant, without any authority, and without even reporting that you had done so to Government; and in reimbursing yourself in the way you did.

4. As regards the whole of your proceedings, which the Governor in Council has had under review, I am directed to observe, that the sentiments of his Lordship in Council are far from favourable to you:—the keeping back the seven account books, as proved by your own witnesses, Nanjee and Jairam, must be considered a most suspicious circumstance, and your not at once ordering the production of your accounts kept by the Firm of Soonderjee Sewjee, must strike every person that there is something in them which you are afraid to shew. The Right Honourable the Governor in Council cannot conceive any guiltless man, labouring under such imputations, not being anxious to produce every document calculated to throw light on the subject; and if there was an unwillingness on the part of the partner in the Firm to produce the accounts without your order, and that of the Sircar, there was a very decided disinclination on your part to allow them to be shewn; leaving on the mind of the Right Honourable the Governor in Council by no means a favourable impression of your principles, which renders it impossible for his Lordship in Council to say that he can consider you altogether an innocent man.

5. You have, on several occasions since your conduct has been under investigation, asserted that you were not bound to keep accounts, and were responsible to the Guicawar alone:—the Right Honourable the Governor in Council has constantly disallowed these unfounded pleas. You have, at the same time, had the utmost consideration shewn to you, and every opportunity afforded you to make your Defence; but as you have, notwithstanding the repeated calls made upon you, failed to produce any other accounts than those which were exhibited before the Commission, it is from an examination of these alone, that the amount which you are declared liable to pay, has of necessity been ascertained.

6. That amount you will observe, from the account current following paragraph 14 of my letter to the Commission, is Rupees 50,294.2.60, from which is of course to be deducted the amount already realized from the stoppage of your allowances, which will subsequently be ascertained.

7. The Right Honourable the Governor in Council directs me to express to you his severe displeasure at the scandalous and unjust attack made by you upon Mr. Chief Secretary Norris, in your remarks transmitted to Government with your letter dated 20th August, 1832, and at your presuming to state to Government, that the letter addressed to you, under the orders of Government by the Chief Secretary, was dictated by Mr. Willoughby; and I am instructed to intimate to you that, unless you forthwith recall the unjust and untrue aspersions which you have ventured to cast on the high character of the Chief Secretary, and express contrition for the offence of which you have been guilty, you will subject yourself to the severest censure of Government, and your conduct will be reported to the Court of Directors in the strongest terms of reprehension. It was your duty, when the decision of the Governor in Council was communicated to you by the Chief Officer of the Government, to have confined yourself to a defence of your own character, and replied to the serious Charges brought against you; and not to have gone out of your way to attack the character of the Chief Secretary.

8. As regards the Members of the Commission and Mr. Willoughby, Government will direct no enquiry to be made into the conduct of any of these Gentlemen, on your *ex-parte* statement:—if you have any charges to bring forward against any one, and are prepared to prove them, you can submit them to Government. In like manner you can, if you think fit, lay before Government, in a regular manner, a charge against Soobaram Majmoomdar and the Karkoons of the Political Commissioner, of having tampered with your witnesses, and ill-treated the Thakoor of Maunsa; but Government will not otherwise attend to the recriminations which you have thought proper to mix up with your Defence:—and you will

distinctly understand, that if you make any charges, and Government shall think proper to direct an enquiry to be made into them, the task of proving them will devolve upon you. Without further proof, Government, in particular, cannot, I am directed to state, believe the highly improbable story told by a man calling himself Lucka Meeah Kaseri, and related by you : if you are prepared to substantiate the charge, you must produce the writer of the letter.

9. With reference to your observations regarding the buildings at Sadra, on which you represent yourself to have made large disbursements, I am directed to transmit the enclosed extract, paragraphs 12 and 13, from a dispatch from the Honourable Court, dated 29th February, 1832, on the subject, and to state that no further grant can be made by Government on that account ; but that if you are dissatisfied with the sum assigned to you for the buildings, Government will restore them, on your repaying the money in question.

I have the honour to be, &c.

(Signed) CHARLES NORRIS, *Chief Secretary.*

BOMBAY CASTLE, 8th March, 1834.

(True Copy.)

(Signed) C. NORRIS, *Chief Secretary.*

3.

Extract of Letter from the Honourable the Court of Directors to the Bombay Government, dated 29th February, 1832.—No. 2.

Paragraph 12.—You have admitted, as a partial set-off against your claims on Lieutenant Colonel Ballantine, a sum of Rupees 10,000, granted to him in compensation for public buildings erected by him at Sadra during his Agency. Though we shall not refuse our sanction to this proceeding, now that it has been carried into effect, we are far from being satisfied of its propriety. Officers who expend money in the erection of public buildings, do so at their own risk : they are not entitled to even partial reimbursement for an outlay unsanctioned by Government, and made without any of those securities which would have been taken if Government, on whom the expence ultimately falls, had been consulted previous to incurring it. Lieutenant Colonel Ballantine, moreover, actually drew, from the beginning of 1825, an allowance of Rupees 200 per mensem, “ to cover all expences for the “ accommodation of himself and establishment while stationary at Sadra ;” for which reason Mr. Wedderburn, the Auditor of Civil Accounts, did not “ feel warranted in recommending any remuneration “ being made to Lieutenant Colonel Ballantine ” for the expences which he thought proper to incur, beyond the above allowance.

13. Nevertheless, if the buildings were actually wanted, their belonging to Lieutenant Colonel Ballantine was certainly no reason against their being taken by Government at a fair valuation ; and Captain Pouget, the Inspecting Engineer in Gujerat, valued them at Rupees 10,000, the sum which you have allowed for them. But though this valuation may be professionally correct, we confess that Mr. Williams’s letter of 22d July, 1829, and Mr. Willoughby’s of the 20th of the same month, render it to our minds extremely doubtful whether Government will ever derive from the buildings in question an advantage adequate to the sum which it has paid for them.

(True Extract.)

(Signed) CHARLES NORRIS, *Chief Secretary.*

Draft of the prohibited Letter to the Chief Secretary to Government, referred to in the 73d paragraph of the Memorial, in which the Memorialist comments on the decision of Government on Colonel Ballantine's Case, and defends his official conduct from the reflections contained in the Letter to the Commission, dated the 8th March, 1834.

TO CHARLES NORRIS, ESQUIRE, CHIEF SECRETARY TO GOVERNMENT.

SIR,

1. In continuation of my letter of the 10th of August last, I shall now take the liberty of offering some remarks upon your letter, dated the 8th of March last, to the Commission which investigated my Charges against Colonel Ballantine. I have already briefly explained the grounds on which I consider myself justified in submitting these observations; but I beg that it may be distinctly understood that, in presuming to do so, I draw a very wide distinction between the judgment of his Lordship in Council upon Colonel Ballantine's case, and the verdict founded thereon. The former I conceive to be a legitimate subject of remark by one upon whom the burthen of a public prosecution has been imposed; but the latter is the prerogative of Government, with which I have neither the right nor the wish to interfere. Having never had any personal resentment to gratify, the consequences to the accused are to me a matter of perfect indifference; and I should be the last person to complain that leniency and mercy have been extended to Colonel Ballantine, had not such been extended by my inculpation. This I consider a most undeserved return for my honest endeavours to serve the East India Company with fidelity, against which I have much reason to complain.

2. For the convenience of reference, I shall note as I proceed the paragraphs of your letter to which my remarks apply.

Paragraphs 1 and 5.—The only point in which these concern me is, as regards the references to Mr. Borrodaile and His Highness the Guicawar, to both of which I objected at the time they were made, on grounds which I conceive to be unanswerable. The chief of these is, that both are inconsistent with the principle justly maintained by Government, of my responsibility to establish what I had advanced against Colonel Ballantine; for when a responsibility of this kind is exacted, it is, I believe, altogether without precedent that any proceedings should be adopted except in the presence of both parties. In other words, His Lordship in Council having been pleased to constitute a Special Court of Justice to investigate Colonel Ballantine's conduct, it was, I humbly conceive, most unusual to adopt any measures to obtain evidence beyond the precincts of that Court; and still more so, that evidence so obtained, defective as I shall shew it to be, should be allowed to set aside evidence of the purest description, taken before the Court in the presence of both parties. As regards the reference to Mr. Borrodaile, although on the above principle I have a right to complain, the result makes it of little consequence, as the decision entirely confirms the Charge. Such a result could, however, have scarcely been anticipated; for although Mr. Borrodaile was required to report upon Colonel Ballantine's liabilities under the 5th and 7th Charges, he was not furnished with the evidence and proceedings of the Commission respecting them; and nothing but the palpable falsity of the accounts produced by the Defence, to relieve himself from these Charges, could have enabled Mr. Borrodaile to form a correct judgment regarding them, uninformed as he was, when they were transmitted to him, that they had been previously proved false and interpolated, and to refer to other accounts not produced.

* As regards, however, the reference to His Highness the Guicawar, and the 7th Charge upon which Colonel Ballantine is acquitted by the present Government, I must respectfully observe that a

decision founded on evidence so obtained, will be considered as entirely deficient in the first requisites of a verdict, even were I unable to adduce reasons for believing that the verbal declaration of the Guicawar, upon which it is chiefly grounded, was obtained by improper means. The decision is avowedly founded on proceedings held without the knowledge of the person who is responsible to substantiate the Charge—without his being permitted to be heard—and without his being allowed, even after they were held, to see them, and remark upon them; whilst, on the other hand, Colonel Ballantine was an active party in them. It would further appear, from the 3d paragraph, that more than one appeal was made to the Guicawar on the subject of the 7th Charge; and I think I have a right to enquire how this originated. It can scarcely again* be observed by Government that I have no interest in the enquiry or the result. Happy indeed would it have been for me had I never become involved in these proceedings; but if I am not concerned in them, why is the decision communicated to me at all?—and how is such an argument to be reconciled with the concluding paragraph of your letter to my address, dated the 8th of March last, supposing an obligation on my part to prove the Charges against Colonel Ballantine, the existence of such obligation being likewise held out to that person?—It follows, therefore, that at one moment I am informed that I am bound to prove my accusations, and at another that I have nothing to do with the investigation or the result; and, in prosecution of the latter doctrine, that Government actually carries on an enquiry, with the aid and intervention of the accused, from which I am altogether excluded; and upon the result of this enquiry, declares the accused acquitted. Colonel Ballantine's mission to Baroda, clothed as it was with the authority of Government, must be viewed more as a political than a judicial proceeding, the object of which was, with the aid of the Resident, to negotiate a settlement with the Guicawar of the accounts of the Mahee Caunta Agency. This would have been perfectly free from objection, had not a judicial investigation been previously instituted, connected with those accounts; but his Lordship in Council will scarcely suppose that I can admit the justice of a negotiation so conducted, in any way affecting his decision upon Charges which he holds me responsible to substantiate. Could I by any possibility have foreseen that Government would have deemed it proper to direct that an attempt should be made to adjust Colonel Ballantine's accounts by a personal negotiation between him and the Guicawar, from which I was to be excluded, my Reports of September and December 1828 would have never seen the light; and I shall only add that, although I do not pretend to possess an extensive knowledge of legal and judicial principles, I conceive a decision founded on the result of a political negotiation of this nature, must be regarded as entirely deficient of the requisite characteristics of a judicial verdict.

3. *Paragraphs 6, 7, and 8.*—These contain the reasons of his Lordship in Council for acquitting Colonel Ballantine on the First Charge, in opposition to a verdict of guilty returned by the Commission.

As Prosecutor on the part of Government, I feel myself called upon to state that, whatever may have been the reasons assigned by the Commission for considering this Charge proved, those recapitulated and objected to by his Lordship in Council, are not those on which the prosecution relied for its substantiation.

In the first place, in regard to the precipitancy with which it was urged that Colonel Ballantine quitted the Mahee Caunta, I must remark that this argument was not (as the comments of Government would imply) made with reference to the period when Colonel Ballantine was directed to give over charge to Mr. Hornby, or to when he informed his Assistant that he was to be placed in charge; but I represented that his departure was most precipitate and suspicious, with reference to the period when he delivered over his accounts; and this cannot be disputed, because it was proved that he took his departure, and dispatched his accounts on the same day, and three days before Mr. Hornby*

* Vide Mr. Bax's Letter of the 27th August, 1833.

received them. Even Colonel Ballantine himself has, on more than one occasion*, designated his departure as precipitate; and, considering what accounts he did render, and the difficulties which he must have been well aware would attend the substantiation of his unvouched and unsanctioned charges and outlays, there could not have been a more suspicious step than this most precipitate departure, particularly when it is remembered that he was perfectly master of his own time.

With respect to the period when Mr. Hornby became in charge of the Mahee Caunta, in my *Precis of Proofs on the 1st Charge*, I have shewn that he was not in charge, and that he himself explained that he did not consider himself in charge as far as regards the accounts of the Agency, to which alone the question at issue refers, previous to the 16th of March, 1828. Had Mr. Hornby, however, stated otherwise, the fact would be proved against him by Colonel Ballantine's letter of the 16th of March, which shews that he, and not Mr. Hornby, possessed the accounts up to that date; and this is further proved by the accounts themselves, as they shew that they were kept by Colonel Ballantine up to that date, and contain entries of that date. Finally, this fact is established by Colonel Ballantine having applied for and received the allowances of Agent up to the 16th of March, upon the only grounds on which he could claim them, or that he continued in charge up to that date; whilst, on the other hand, Mr. Hornby was refused the allowances on the only grounds upon which they could have been withheld from him, or that he did not become in charge until the 17th of March, 1828.

Supposing, however, that Mr. Hornby had proceeded to Ahmedabad (though I am quite at a loss to conceive how it could have become his duty to quit the Mahee Caunta, and to proceed to a place beyond the jurisdiction of the Agency he was to receive charge of), and demanded the accounts, he would have been informed they were under preparation, and would have had no alternative but either to have returned, or to have remained absent from the Agency, to the detriment of the public business he was then conducting at Koral.

In reference to the remarks upon Colonel Ballantine's application to visit the Presidency, it appears to have escaped the attention of his Lordship in Council that this application was made before it was known at Baroda that he was about to be removed from the Mahee Caunta; consequently neither the application itself, nor the Resident's letter forwarding the permission of Government, had any connection whatever with the correspondence which followed Colonel Ballantine's removal. A reference to dates will illustrate this remark.

Colonel Ballantine returned from Surat on the	7th January, 1828.		
Applied for leave to visit the Presidency on the....	22d	"	"
Permission to do so was conveyed by the Resident on the ..	14th February,	"	"
Letter of Government, intimating his removal, was dated the	8th	"	"
Forwarded to him by the Resident on the	13th	"	"
Mr. Hornby informed by Colonel Ballantine that <i>he was to be placed in charge</i> on the	17th	"	"
Mr. Hornby to the Resident, reporting he had been placed in charge, and promising receipts hereafter	22d	"	"
Mr. Hornby to Colonel Ballantine, calling for accounts preparatory to exchanging receipts	27th	"	"
Mr. Hornby informing the Resident that the Quick and Dead Stock and Cash Balances had not been delivered to him ..	5th March,	"	"
Colonel Ballantine to Mr. Hornby, forwarding the Agency accounts	16th	"	"
Mr. Hornby to the Resident, reporting they reached him on the 19th	27th	"	"

* Vide his Report of October 1829.

A perusal of the letters above quoted will shew that, although Colonel Ballantine informed Mr. Hornby that he was to be placed in charge on the 17th of February, this event did not actually take place until the 19th of March, 1828; unless, indeed, a man can be said to have resigned charge of an office before adjusting his accounts, and delivering over all the public property in his possession to his successor. It is, however, a singular circumstance that the Resident's letter * to Colonel Ballantine, directing him "to deliver over to Mr. Hornby the Quick and Dead Stock of the Agency, Cash Balances, and Presents, exchanging the usual receipts," is not noticed by his Lordship in Council in his review of the evidence on the 1st Charge, although of itself sufficient to establish it. How any neglect on the part of Mr. Hornby can absolve Colonel Ballantine for his culpable neglect in not conforming to the precise instructions contained in that letter, I am quite at a loss to conceive; and as they were dated the 19th of February, it is not surprising that the Resident should not have considered (as his Lordship in Council thinks he should have done) it requisite to adopt any further precautions to ensure a due delivery in his letter dated the following day, transmitting to Colonel Ballantine the permission of Government to visit Bombay.

His Lordship in Council further remarks that Mr. Hornby's conduct evinced "a confidence and approbation in him that all was right." I beg respectfully to observe that this presumption is at direct variance with that gentleman's evidence† before the Commission, and with the letters he wrote at the time of receiving charge. How could Mr. Hornby have felt confidence in the accounts before he received them? The moment he did receive them, he proceeded to Ahmedabad in search of explanation; but found that the accounting party had left for Bombay three days before. He wrote, both publicly and privately, to Colonel Ballantine on the subject, but got no answer, and finally reported his proceedings to the Resident at Baroda.

It is, moreover, observed that Colonel Ballantine must have been aware that, had he given in fraudulent accounts, his departure could not have saved him from an examination of these accounts afterwards. This is true: but who can fail to perceive how much he gained by his retreat; or to be convinced that, instead of the inconvenience to Government and the Service resulting from these proceedings being justly attributed‡ to any neglect of mine, it has solely originated in his abrupt departure from Gujerat, in defiance of the positive orders of the Resident to adjust his accounts with his successor?

In the first place, Colonel Ballantine thereby avoided a meeting with his successor, and their joint inspection of the accounts; and it must be acknowledged that there can be no examination that a man, whose accounts are bad or false, and records and vouchers imperfect, would so much desire to evade, as that of the person who is to be responsible (as his successor would be) for all deficiencies and defects not objected to at the time.

In the second place, time was gained; and in Colonel Ballantine's case, the permission of Government to remain, I believe, for two years at the Presidency, drawing the full allowances of his military command, under the plea of settling the very accounts he had been ordered to adjust with his successor.

In the third place, confusion was increased, and the difficulty of requiring, giving, and receiving explanations were greatly added to.

In the fourth place, a chance was created that the question of responsibility, as regarded himself and Mr. Hornby, might become so mystified, that he might in the end be exonerated, both being held blameless, except as to inadvertence to solve the difficulty.

* Vide Exhibit 21, C. P.

† Vide his Evidence, taken 17th January, 1832.

‡ Vide Paragraph of your Letter to the Commission.

In the fifth place, he might, if declared responsible, and called upon to explain, after making the best story he could, say he was now absent from the Mahée Caunta, unable to refer to persons and documents, with facts fading from his memory, &c. and cast himself on the indulgence of Government.

In these and other ways, with accounts and unvouched demands such as his, Colonel Ballantine might well expect to profit infinitely by transferring the examination of his accounts from Gujerat to the Presidency—an object which he easily accomplished by his precipitate departure on the date they bear; and I should have no difficulty in shewing to the satisfaction of any unprejudiced person, that he has urged, with benefit to himself, the whole of the above pleas, not one of which would have been available, had he attended to the orders of the Resident to settle his accounts on the spot. It is a happy circumstance that the fraudulent and dishonest are not always the most prudent, and often effect their own detection when it could not have been accomplished without their assistance. This has been eminently the case in some instances with Colonel Ballantine, who has done himself great injury by unguardedly admitting, in his preliminary explanations, that he had accounts, and furnishing most minute and lengthened copied accounts, withholding the originals from Government, and from the Commission appointed to investigate his conduct. This was a great error; but his flight from Ahmedabad—for it deserves no other name—was, on the other hand, a great act of strategy: it exposed him, it is true, to just suspicion, but it extricated him from immediate peril, and furnished him with the means of prolonging his Defence, and warding off his final condemnation for five years and upwards.

His Lordship in Council has, however, been pleased to annul the decision of the Commission on the first Charge. This gives me no uneasiness; for I shall easily convince the world, before whom I stand arraigned, that it was neither false* nor malicious, frivolous or vexatious. To clear myself of this accusation, I shall ask, “when was the opportunity given to Mr. Hornby to enter into an examination of the accounts of the office Colonel Ballantine vacated?” without which the usual receipts could not be exchanged. Was such given previous to the 16th of March, 1828?—I answer, No; for the accounts to be examined were not received until three days after that date. Was such given subsequent to the 16th of March, 1828?—With equal confidence I answer, No; for on that very day Colonel Ballantine left Ahmedabad for Bombay, knowing that Mr. Hornby was twenty miles distant, in another direction from Ahmedabad.

4. Paragraphs 9, 10, 11, and 12 contain his Lordship in Council's reasons for acquitting Colonel Ballantine on the 2d and 3d Charges, in opposition to the opinion of the Government of 1830, and to a verdict of guilty recorded by the Commission.

Considerable weight might be due to the reasoning of Government on these Charges, were it not opposed to the voluntary admissions contained in Colonel Ballantine's Report of October 1829, written at a period when he does not appear to have anticipated the enquiry that has subsequently taken place. Were it not for these, I am quite prepared to admit that, if the Moojmoomdar Soobaram's evidence is to be rejected, because persons at a distance, who were not present at his examination, may consider it a made-up story, then, in consequence of the want of due precaution evinced by Mr. Hornby in receiving charge of the records, it is necessary to decide, upon inference and presumption, whether that gentleman or Colonel Ballantine is responsible for the deficiency proved to have existed when they reached me at Baroda. According to this rule, however, the responsibility must be deemed to attach to Colonel Ballantine, every inference being against † him, and in favour of Mr. Hornby, who has not even been accused by Colonel Ballantine (prone as he is to charge every man opposed to him with criminal and disgraceful conduct) with having either accidentally lost, or wilfully made away

* Vide Colonel Ballantine's Pamphlet *passim*.

† Vide *Precis of Proofs on the 2d and 3d Charges*.

with, the missing records, and it was surely Colonel Ballantine's province to have shewn some reasonable cause to account for the deficiency, supposing it not to have existed when he left Gujerat.

It seems, however, to have escaped attention that, in the Appendix to his Report of October 1829, Colonel Ballantine has himself furnished a register of the records which, according to his own statement, he sent to Mr. Hornby; and this is, I conceive, of itself sufficient to prove both Charges, but more especially the third, since no account of any description is entered in this document as having been delivered to his successor. An inspection of this register will satisfy any one possessing local experience, and consequently competent to form an opinion of the nature and extent of the records which would, during a period of six and seven years, accumulate in an office like that of the Mahee Caunta Agency, that Mr. Hornby's opinion * that not a third of the records was transferred to him, is not far from the truth. This opinion should go for something, corroborated as it is by the letter which Mr. Hornby wrote † to Colonel Ballantine on receiving the records, asking to be informed whether all the records had been sent to him, and if not, to whom should he apply for the remainder; which must certainly be held to indicate that his impression at the time was, that all had not been sent. This gentleman, moreover, positively asserted, in his evidence before the Commission, that he sent to me all the records which he himself received from Colonel Ballantine:—it follows that Government must either discredit the assertion of a gentleman whose integrity has never yet been impeached; or admit that the deficiency in the records discovered at Baroda, existed antecedent to Mr. Hornby's receipt of them.

In reference to the remarks of his Lordship in Council upon the evidence of the Moojmoomdar, no consideration shall deter me from stating it to be my firm persuasion and belief, that the imputations thrown out against that humble, but honest, individual are entirely undeserved. His Lordship in Council may fully rely that he is mistaken in his opinion that this person gave false evidence against Colonel Ballantine, because he thought in doing so, he was meeting the views of his employer; a remark which I conceive to be most unjust to myself personally. What utility, may I ask, can ever result from a local enquiry, conducted in an open Court, in the presence of all parties, if the Judges before whom it is conducted, are not held to be the most competent to decide upon the credibility, or otherwise, of the witnesses examined before them? Government, however, are pleased to observe that the evidence adverted to, "bears strongly the appearance of a made-up story."—Made up by whom, I may ask, and for what purpose?—Government infer that the Deponent made it up; but I must confess, as it is afterwards said he made it up for me, "his employer," I feel it is only a slender partition that separates us. To render it, however, probable that the evidence was fabricated, the "*cui bono*" must be shewn. Proverbial as the Natives are for their little regard to veracity, some motive must be stated to induce a man to depose falsely. None has been or can be assigned in the present case, for not even Colonel Ballantine himself in this instance has dared to insinuate that I suborned him.

With respect to the periods stated to have occupied the Moojmoomdar in selecting the records at Sadra, and afterwards at Baroda, I could shew, by analyzing the evidence, that they do not constitute just grounds for suspecting his evidence. It will, perhaps, be sufficient to observe that, in marking time, nothing can be more loose and indefinite than the expressions of Natives; and that on the first occasion the Moojmoomdar was acting under the orders of others, and had merely to receive what others thought fit to give him; whereas on the last occasion he was his own master, and was allowed his own time to execute the duty entrusted to him. When to this it is added that in the one case no catalogue of the records was made, whereas a very minute one was framed in the other, the Moojmoomdar's statement, that the inspection at Baroda occupied a longer period than the one at Sadra, appears to me to be perfectly reconcileable with truth and probability.

* Vide his Evidence and Exhibit 59, C. P.

† Dated 3d March. Vide C. P.

It is a melancholy fact, that every one at all conversant with the Natives of India, must coincide in his Lordship in Council's observations upon the little dependance upon their veracity, with this qualification, that some motive must exist for deposing falsely. In this instance, however (always supposing the absence of personal corruption on my part), no motive can be assigned as existing to influence the Moojmoomdar to give false evidence; and little as I compute the love of Natives for veracity, I cannot believe that any man, uninfluenced either by friendship or enmity, would be so base as to fabricate, gratuitously, a lie to injure another.

With regard to the distinction drawn by Government between the evidence adduced by "a man in official power, and one who has lost it," I do not feel it applies. I was not vested with any of the usual marks of a man in official power; for Government did not even consider it necessary to allow me a Carcoon, or a Writer, to relieve me from the manual drudgery of the heavy task it imposed upon me: and it was with the greatest difficulty, complete stranger as I was at Ahmedabad, that I could procure persons to engross the evidence, and copy the pleadings. I do not think this remark would have escaped his Lordship in Council, had he been present at the opening of the Commission on the 17th December, 1831. In the centre sat the Judges:—on the one side was the Defendant, with his Council, a Barrister of His Majesty's Supreme Court at the Presidency, and no less than five Carcoons of the Establishment of the Mahee Caunta Agency, who, as they had left with Colonel Ballantine, returned at his summons to aid him in his Defence, when publicly arraigned for the dishonest system which prevailed under his administration, and in which, as subordinate, they had doubtless participated:—on the other side sat the person designated, indeed, "Prosecutor on the part of Government," but without the aid of a single human being to assist him in the performance of the arduous duty before him. So much, therefore, for the official dignity with which I was surrounded, and the weight and inducement held out to people to come forward, and gratuitously depose falsely, to support the Case entrusted to my management:—but few will fail to see that, though the shadow was there, the substance was wanting.—To return to the Moojmoomdar, I must in justice to him state, that he gave his evidence under feelings of great alarm for the consequences of speaking the truth to the prejudice of his former master; a part of whose tactics it was to promulgate, through the Natives interested in his cause, that the first result of his acquittal would be his return, vested with official power, into the Mahee Caunta. In my opinion the Moojmoomdar stood to Government

"Among the faithless, faithful only he;

"Among innumerable false—unmoved,

"Unshaken, unseduced."

In fact, he had a stake at issue. He holds an hereditary situation in the Mahee Caunta, which nothing but misconduct on his part can deprive him of; and, consequently, he did not abscond from Gujerat, as the greater part of the Agency Establishment did, on Colonel Ballantine's removal; thereby shewing that they considered themselves as his servants, rather than those of the Government who paid them.

His Lordship in Council is pleased "altogether to acquit me of having in any way attempted to manufacture evidence;" but my acquittal is accompanied by an observation extremely hurtful to my feelings—"or that Government is of opinion that both Soobaram and the Carcoons were satisfied they were meeting the views of their employer in the course they pursued;" which of course signifies, they fabricated false evidence to gratify me, their employer. In the first place, I beg to ask, how it is possible that these persons could suppose that it would prove satisfactory to me for them to supply me with accusatory matter against Colonel Ballantine, unless, in some way or other, I myself had given them cause for entertaining such a belief?—The thing appears to me incredible; and his Lordship in Council could not do me a greater injustice than to believe that when, in obedience to the Resident at Baroda's orders, contained in his letter of the 16th of July, 1828, I commenced enquiring into Colonel

Ballantine's accounts, I had any desire that the results should criminate his conduct; and as far as relates to the particular subject to which the remark of Government applies, I beg with confidence to appeal to the mode in which it is treated of in my Report of September 1828, as the most convincing proof of the total absence of any such dishonourable feeling on my part. At that time I did not attach the importance which Colonel Ballantine's subsequent conduct gave to the abstraction and removal of the records and accounts of the Agency: I merely treated it as an oversight or irregularity committed without any evil design; and simply requested that measures might be adopted for their recovery, and "transmission to the office, from which, consistently with the regulations of Government, they ought never to have been removed.*"

In the above passage, however, of your letter to the Commission, the evidence of Soobaram and the Carcoons is detracted from; and though I am held to be innocent of subornation of false evidence, yet it is said, those persons, in themselves doing so, were satisfied "that they were meeting the views of their employer." Surely the term "employer" is here misapplied. How was I their "employer?" A public functionary, with public servants under his orders, is not called their employer: the Government who pays them is their employer. Any body, unacquainted with the real facts of the case, would infer from this remark of his Lordship in Council, that I was considered to have employed these persons in some private or personal manner: instead of this, however, I merely required them to perform a public duty—to make lists of public records and documents. Not only was this clearly my duty and theirs, but his Lordship in Council, at the commencement of the 9th paragraph of your letter to the Commission, blames Mr. Hornby for not doing the very same thing. I must confess, the reflection cast upon me greatly extenuates the neglect of duty Mr. Hornby committed; for if he had caused the lists to have been taken, and the deficiencies afterwards discovered, had then become apparent, what would have been the probable result? His Lordship in Council might, with just as much reason, have observed, as it has been said now—"when a Native is called upon by a man in official power to give evidence against another who has lost it, such evidence is to be received with the greatest caution;"—"and that the people who made the lists, and reported the deficiencies to Mr. Hornby, felt satisfied they were meeting the views of their employer."

In reference to the remarks of his Lordship in Council, in the 12th paragraph of your letter, I cannot avoid observing that they involve the admission of a principle, the general adoption of which would, I conceive, operate most injuriously to the interests of any Government. It is this—that because the Agent A chooses to be careless in ascertaining what public property he either actually receives, or ought to receive, from the Agent B, the latter is thereby relieved from all responsibility to Government for deficiencies in what he delivered over. If the transaction were so perfectly regular, that the responsibility could justly be thrown upon A, no injurious consequences would ensue; but, in the instance under discussion, who can say that this was the case, when no receipt was asked for by the one party, or granted by the other?—Somebody must, in all cases of transfers of offices, be responsible to Government; but how can Mr. Hornby be held to be so, having had the records, as it were, thrown at him, and his immediate reference regarding them remaining altogether unnoticed by Colonel Ballantine?

In conclusion of my remarks on the judgment of his Lordship in Council upon the 2d and 3d Charges, I must respectfully, but without hesitation, declare, that Colonel Ballantine's acquittal on the 3d is in opposition to the strongest and most convincing evidence of his guilt, the undoubted purity of a part of which is even recognised by the Government who have pronounced his acquittal. If Soobaram's evidence is rejected, then I admit no direct evidence was adduced by the Prosecution to prove what account books were delivered to Mr. Hornby; but, on the other hand, the most direct

* Vide Paragraph 6 of my September Report.

testimony was adduced to shew what account books *were not* delivered to that gentleman. This, moreover, was obtained from what is usually regarded as the most unexceptionable sources of evidence, viz. either the voluntary admissions of the Defendant, made previous to his being placed on his trial; or the confessions of his own witnesses during the trial. If evidence of this nature is to be rejected, public prosecutions would be a farce, enacted to raise, and then to disappoint, the expectations of the aggrieved; and no one, with any regard to his personal safety or character, could undertake the odious office of a public prosecutor.

1st. Then Colonel Ballantine, in the Appendix to his Report of October 1829, consisting of 145 sheets, furnished Government with most minute and detailed accounts in copy, framed, as he alleged, from the public accounts of the Agency, at that time (*i. e.* more than a twelvemonth after he had given over charge to Mr. Hornby) in his possession.

2d. He admitted, and proved out of the mouths of his two principal witnesses, that when he left Gujerat, he deposited seven large account books belonging to the Agency with Luckmeedass, a person not paid by, or in any way connected with, Government, but the servant of the Firm of Soonderjee Sewjee, Colonel Ballantine's private Bankers*.

3d. Colonel Ballantine afterwards caused these seven books to be forwarded to Bombay, without the knowledge of, or any communication to, Mr. Hornby, to whom they should have been transferred in March 1828.

4th. Colonel Ballantine, after much hesitation, produced these seven books before the Commission, when they were proved to be false and interpolated, and to refer to other accounts in existence not produced.

5th. Colonel Ballantine acknowledged having a "Check Account," from which one of the above books had been framed; but when required by the Commission to produce it, refused to do so.

6th. Colonel Ballantine, in his Report of October 1829, twice admits, without any qualification, that when he left the Mahee Caunta, an English Mohsullce account existed, which was carried away with him by mistake; and the letter of the clerk sending for it from Sadra, was recorded on the Commission's proceedings. When called upon by the Commission to produce this account, he retracted the above voluntary admissions, and failed to produce the account.

The whole of the above facts were legally proved at Ahmedabad; but, nevertheless, his Lordship in Council is pleased to declare that he holds Colonel Ballantine guiltless of the Charge "of having failed to deliver over account books" to his successor; though at the same time, in your letter of the 8th of March, to Colonel Ballantine, he is informed, that "the keeping back the seven account books, as proved by your own witnesses, Nanjee and Jairam, must be considered a most suspicious circumstance; and your not at once ordering the production of your accounts kept by the Firm of Soonderjee Sewjee, must strike every one that there is something in them which you are afraid to shew." I consider myself, therefore, justified in stating, that Government has acquitted Colonel Ballantine on the third Charge in direct opposition to facts, not only admitted by himself, but one of which is recognised by Government as constituting matter for grave suspicion against him.

5. *Paragraph 14.*—But few observations suggest themselves on this paragraph. The Government of 1830, the Commission convened at Ahmedabad, and the Government of 1834 have unani-

* Vide Colonel Ballantine's Pamphlet.

mously concurred in pronouncing Colonel Ballantine guilty of having rendered to various public officers "irregular, inconsistent, and incorrect accounts, the results of which were far more favourable to his pecuniary interest than could have been exhibited by correct and true accounts;" or, in the language undisguisedly made use of throughout his trial at Ahmedabad, with having rendered to the officers adverted to, "fraudulent accounts." The Government of 1830 adjudged him to be a public defaulter to the extent* of Rupees 1,13,140: the Commission, and Mr. Borrodaile, to whom the fourth Charge was subsequently referred, both, I believe, to the amount of one lack of Rupees and upwards—and the Government of 1834, to the extent of Rupees 50,294.2.60; although in both the public accounts I was required to report upon, Colonel Ballantine claimed, as a debt due to him from Government, the sum of Rupees 1,603. Now the whole of these fraudulent accounts were either rendered at the time, or subsequent to, Colonel Ballantine's removal from the Mahee Caunta; and in lieu of the praise due to the person whose exertions, in behalf of Government, have led to the recovery of so considerable an amount of the public money, he is informed that his Lordship in Council considers that to his and the Resident at Baroda's inexcusable and culpable negligence is to be attributed the inconvenience entailed upon Government, and upon the Service, by the late investigation of Charges against Colonel Ballantine for offences alleged to have been committed ten years ago; from which it must be inferred, either that the fraudulent accounts of the Mahee Caunta Agency were not of sufficient consequence to entail upon Government the inconvenience of an examination of them, or a moral impossibility must be supposed, *viz.* that the Resident and myself could have controuled the impulse under which Colonel Ballantine framed them in Bombay and other places. I must further observe, that scarcely any culpability is apparently considered to attach to the party who rendered these accounts; and no man can *with justice* hereafter be called in question for transmitting to his superiors fabricated accounts, or for lending loans in contravention of Acts of Parliament to Native Chiefs under his authority, and, what is far worse, entering the balances of these loans into his public accounts, as outstanding balances of Revenue, and acknowledging that the items so entered are partly composed of "interest for the over period." The utmost that can be required from him, is to refund whatever may by chance or good fortune be proved against him by the accounts which he himself may see fit to produce; for, with all due deference, I must state that the remark of his Lordship in Council at the close of the 14th paragraph of your letter, concedes that public account books are not to be considered public property; and that the Servants of Government cannot be compelled to produce them, but are at liberty to substitute any other accounts more conducive to their interests. I do not pretend to say that such is the meaning of Government, but this principle has most certainly been acted upon in Colonel Ballantine's case; for although it has been proved beyond doubt, that several of the Agency account-books are either in his possession, or within his power to produce, they are not required from him, but he is simply placed under stoppages for the balance appearing against him, "on a careful examination of the only accounts which he has produced," *viz.* Rupees 50,294.2.60. Henceforward, moreover, I feel myself bound to add, Government can scarcely expect to find any of its Servants bold enough to tread the thorny path which I have been compelled to pursue:—warned by my fate, they will wisely shun it, and consult their own personal comfort and ease, rather than the interests of the East India Company.—Is not such a consequence likely to result from my example?—Does his Lordship in Council suppose that the negative praise he has bestowed upon me, of being a man of integrity, will be sufficient to induce the Servants of Government to act upon that spirit of intolerance against speculation, by which alone, in a Country where so few checks exist, the purity of its administration can chiefly be maintained?—Judging by my own feelings, something more than this is required; but when my fellow-servants see that, at the end of all my labours, not only that I am not cheered with the approbation and support of those in whose name I have acted—but, in lieu thereof, that the Agent through whose instrumentality 50,000 Rupees and upwards of the Company's money

* Vide Colonel Ballantine's Pamphlet, p. 2.

have been recovered, is visited with most undeserved censure and implied disgrace, left to defend himself, in the best way he can, from an assault against his character of the basest nature, and denied the unfettered use of the only materials by which he could satisfactorily repel it: then I do maintain that Government has, by its conduct towards me, placed the greatest check that could have been devised against the future exercise of the feeling alluded to in the 19th paragraph of my letter of the 10th of August last, as having been remarked upon to prevail in India by one who could not fail to see how important it was, both to the governing and governed, to cherish and preserve it, and therefore sealed it with his approbation.

6. Paragraphs 15, 16, 17, and 18 contain the decision of his Lordship in Council upon the 5th Charge.

With respect to the ambiguity stated to exist in Colonel Ballantine's letter of the 5th of November, 1822, as regards the interest, I may be permitted to ask, why this letter should not be interpreted to mean the same, as regards the interest, as regards Mohsullee? The same expressions apply to both, not only in this letter, but in all others in which the interest is mentioned. The interest and Mohsullee are invariably mentioned in the same way. Now as regards Mohsullee, *the fact, as admitted by Colonel Ballantine**, after having received my Report of September 1828, is, that when he wrote his letter of the 5th November, 1822, he had in his deposit Mohsullee to account for, to the extent of Rupees 14,000 and upwards.

In regard to the alleged supineness of the Residency, I have, in my letter of the 10th of August last, satisfactorily shewn that every thing was done that was required by the Government of the time being; and argued in consequence, that it is unreasonable that the present Government should now censure us for not having done more than the orders we received demanded from us. Admitting this supineness proved—what then? Why, it may exempt Colonel Ballantine from some blame as to his delay in making the payments due from him, but it never can exempt him from making such payments at all. The decision of his Lordship in Council, as far as the interest branch of the Charge is concerned, certainly goes to this length; for it is remarked, “in a letter dated the 20th September, 1823, “Colonel Ballantine clearly admits a certain amount realized under the head of Mohsullee and interest “in the preceding three years, for which he says the Government (Guicawar) will receive credit;” but it is afterwards observed, “no actual amount under this head (of interest) is found among the “items enumerated under the 4th Charge, as those for which Colonel Ballantine is judged by Government to be responsible: so that Colonel Ballantine's liability, as regards interest, previously to the “20th September, 1823, can be carried no farther than is above specified.” If I understand aright, the meaning of the above is, that, although Colonel Ballantine has himself admitted that he has had an unspecified amount of interest in his deposit since September 1823, he cannot be compelled to account for it, and is at liberty to withhold the only accounts (or those of the Firm of Soonderjee Sewjee) in which the amount could be ascertained. This may be very good law, but in my humble judgment altogether inapplicable to the case of a public officer settling his accounts with Government; and I must add that, could I have supposed that Government did not possess the power, or that possessing the power, the same would not be exercised to compel one of its Servants to render an account of public money which he himself admits to be in his possession, I never would have dared to impeach the rectitude of Colonel Ballantine's accounts. I beg, however, to remark that several instances, where Colonel Ballantine actually levied interest, were proved to the satisfaction of the Ahmedabad Commission. None of these, however, are now charged against Colonel Ballantine, which is the more surprising, since no doubt can attach, at all events, to two of these items, because they were extracted from accounts furnished by Colonel Ballantine himself. I beg to refer his Lordship

* Vide Enclosure B. of his Report of October 1829.

in Council to Exhibit 72 of the Commission's proceedings, and to Enclosure C. of the Appendix to his Report of October 1829; the latter being an account which establishes that Colonel Ballantine, in concert with the Firm of Soonderjee Sewjee, commenced the culpable, but profitable, system of lending loans to the Villages under his political controul, in the first year of his administration, and continued it up to the date of his removal. In it compound interest, at the rate of 12 per cent. per annum, is entered year by year against the Village of Sulkee; and the account shews that the whole of the principal, and a portion of the interest, was actually received by Colonel Ballantine, which interest is of course still due to the Guicawar. In the 16th paragraph it is observed that there is no proof sufficient to render Colonel Ballantine liable for interest subsequent to 1823; "for if there was an unauthorized change in the periods at which the Tribute was originally payable, Mr. Williams, the Resident, who allowed it, is just as much to blame as Colonel Ballantine; and if the Tribute was not realized and paid with punctuality to the Guicawar, the Political Agent is not the only culpable person. The irregularity noticed by the Resident, and now charged by Mr. Willoughby against Colonel Ballantine, should at the time have been reported to Government, when an enquiry would have been made, and the real state of the case ascertained; but his Lordship in Council cannot perceive on what principle of justice Colonel Ballantine alone can now be called upon to pay interest on collections realized by him many years ago, irregularly perhaps, but with the knowledge of the Resident. If the Guicawar has any demand against the Government on this head, which his Lordship in Council doubts exceedingly, Colonel Ballantine's superior, Mr. Williams, is, the Right Honourable the Governor in Council considers, equally liable for it."—This passage is extracted at length, because it is my principal warrant for asserting that the decision of his Lordship in Council upon Colonel Ballantine's case evinces a strong disposition to acquit him, or extenuate his conduct by unjustly censuring the Residency.

The above remarks inculcate the Resident in two ways:—1st. That although the Tribute was not paid to the Guicawar according to the provisions of the Treaty of 1820, Mr. Williams, the Resident, and myself, as Acting Resident, during the one year and ten months I am adjudged by the present Government to have been a remiss and inefficient servant of the Public, permitted and connived at the irregularity.—2d. That though Colonel Ballantine violated the Treaty of 1820 by an unauthorized change in the periods at which the Tribute was payable, the Resident permitted such violation, and failed to report it to Government. I feel myself at liberty to state, for it is the truth, that there is no foundation for either of these charges against the Residency.

In refutation of the first charge, I need only refer his Lordship in Council to the 18th paragraph of my letter of the 10th August, 1834, proving, by a reference to the public records, that scarcely a year passed during which either the Resident or myself did not remonstrate with the Agent upon the very point we are now stated to have neglected to notice; and that the subject was frequently brought under the consideration of the Government of the time being, whose province alone it was to apply a remedy.—In refutation of the second charge, I presume it will only be necessary to state that, by a reference to the records of Government, his Lordship in Council will find that the change of Kists was protested against in the strongest language by Mr. Williams, the Resident: that it was reported to Government as a violation of the Treaty of 1820 by myself, when officiating as Resident in March 1824†; and that the receipt of my letter was acknowledged by Mr. Chief Secretary Newnham in April‡ following. In this the Government of the day admitted that the change was an infraction of the Treaty referred to; but instructed the Resident candidly to state the case to the Guicawar, and to endeavour to obtain His Highness's consent to the alteration, in consideration of the difficulty of setting aside Colonel Ballantine's settlements, without shaking the faith of the

* Vide Mr. Williams's Letter to Colonel Ballantine, dated 17th December, 1823.

† Vide my Letter of the 11th March, 1824.

‡ Vide Mr. Newnham's Letter of the 8th April, 1824.

Tributaries. This correspondence must have, no doubt, escaped the attention of his Lordship in Council. Had it come under his observation, he never would have informed the Commission that the change of Kists was allowed, and was not reported by the Resident, and consequently that that officer is just as much to blame, and equally liable to pay interest, as Colonel Ballantine who made the change. It is this, however, against which both the Resident and myself have much reason to complain—viz. that, although the records of Government contain ample matter for our vindication from all the censure cast upon us, except in one, and that a minor instance, we are visited with censure and reproach, scarcely exceeded in severity by that passed on one who is now a declared and convicted public defaulter.

I beg, however, further to add, with reference to the remarks of his Lordship in Council, in the 16th paragraph of your letter, that I am not aware of any claim for interest having been urged against Colonel Ballantine, in consequence of the infraction of the Treaty of 1820, by changing the periods of payment of the Tribute. My argument as Prosecutor was simply this :—According to the Treaty of 1820, the Guicawar was entitled to receive interest if his Tribute was not received at the prescribed period. In 1823 the Agent of the British Government unauthorizedly made a change, which postponed the period of payment eight months beyond that on which it was payable by the Treaty of 1820; and in doing so, held out to the Guicawar, as an inducement for him to acquiesce in the alteration, the punctual realization of the Tribute in future. Notwithstanding this measure, no change for the better occurred; but the Tribute was realized as irregularly as ever, and called forth frequent remonstrances from the Guicawar: from all which I argued that, as he was entitled to interest under the Treaty of 1820, and as a change, entailing a permanent loss of interest on the full amount of Tribute, by postponing its payment eight months, had been effected, the Guicawar's claim to receive interest for any further delay in its realization, could not *à fortiori* be disputed.

In the 17th paragraph his Lordship in Council is pleased to observe—“if Mr. Willoughby believed Colonel Ballantine to have realizations on account of interest to a considerable amount in his hands, he should have called on Colonel Ballantine for a full statement of the same, and reported his having done so to Government, *before* he was relieved from his charge of the Residency.”—A doubt is here implied whether I did or did not believe that Colonel Ballantine had an unspecified amount of interest in deposit when he wrote his letter of the 5th of November, 1822; to remove which, I need only refer to my letter to Government*, soliciting orders how this interest was to be disposed of—to my letter to Colonel Ballantine, conveying to him the orders of Government † respecting its disposal—and to the endorsement on that letter in Colonel Ballantine's hand-writing, containing allusions to interest as well as Mohsullee, and proving that he received it on the 30th of December, 1822. It is very easy now to censure me for not having done more than I was required to do by the instructions I received from Government; but to me it is quite incomprehensible how my omission (admitting it to be one) to require from Colonel Ballantine an account of monies not belonging to the British Government, and which were not to be paid either by or through me, can extenuate, and much less justify, his disobedience of the orders he did receive to pay those monies to the Government to whom they did belong. At the time referred to, I had no grounds of suspicion against the Agent; and I felt I had performed my duty when I had communicated, for his information and guidance, the instructions of Government on the subject. In further justification of my conduct, I beg to refer his Lordship in Council to the 20th paragraph of my letter of the 10th of August, containing my defence against the second specific instance of neglect of duty charged against me in your letter of the 8th of March last.

His Lordship in Council here takes occasion to observe, that the culpable negligence of the Resident and myself is inexcusable, and has “*entailed upon Government and upon the Service the inconvenience of the late investigation of Charges against Colonel Ballantine for offences alleged to have been*

* Dated 11th November, 1822.

† Dated 27th December, 1822.

"committed ten years ago." His Lordship in Council will not, I think, feel any surprise that I should consider the above remark exceedingly unjust towards me ; and I trust the Honourable Court of Directors will take into consideration the effects likely to result from such a return being made to me for all the labour and anxiety which this investigation has occasioned me, and the unmerited opprobrium and abuse to which it has exposed me. Henceforward I may ask, who is likely to perform the most painful of duties? Will not a remark of the above nature be construed into a warning to deter others from expressing an honest opinion upon fraudulent accounts expressly submitted for his report? Who will be so infatuated as to do so, and incur the risk, in the event of any investigation following, of being told by Government, who alone institutes it, that he is the cause of the inconvenience incurred in consequence? Had the prosecution against Colonel Ballantine entirely failed, a remark of the above nature might I think have been spared me ; and how much more so when it did not fail, but, on the contrary, terminated in his being proved to have had 50,000 Rupees and upwards of the public money in his possession, unaccounted for in the accounts I was required to report upon. I feel, however, I am altogether helpless against such an observation, and that I cannot flatter myself I shall be able to shake an opinion so deliberately formed and pronounced. I must, however, state that it cannot by any ingenuity be made to apply to the four first Charges against Colonel Ballantine ; because these were entirely founded on his own acts and proceedings, either at the time or after his removal from Gujerat, in direct disobedience of the positive instructions issued from the Residency to adjust his accounts on the spot, in communication with his successor. It might with great truth and reason have been observed, "the inconvenience entailed upon Government and the Service is to be attributed to Colonel Ballantine's neglect of the Resident's orders to adjust his accounts with Mr. Hornby—to his precipitate departure from Gujerat three days before his accounts reached Mr. Hornby—and to his having been so unmindful of his duty and of principle, as to furnish false accounts, and to withhold from Government and the Commission the only accounts which can shew the real state of his pecuniary transactions with Government." When such reasons exist for the inconvenience incurred, it is exceedingly unjust, both to the Resident and myself, that it should be attributed to our culpable and inexcusable neglect.

I must, however, take the liberty of pointing out some anachronisms which exist in the above passage. The three Charges of the gravest importance investigated at Ahmedabad, were the 4th, 5th, and 7th, to neither of which can the expression of "offences alleged to have been committed ten years ago," apply. The 4th Charge originates in a transaction dated the 16th March, 1828, and my accusation was dated the 20th September, 1828. The 5th Charge was founded on an order received on the 30th December, 1822 ; that order was repeated on the 16th August, 1827 ; and the accusation originating in its disobedience, was dated the 20th September, 1828. The intervening period, therefore, is under six instead of being ten years, and my letter of the 10th of August satisfactorily explained the cause of delay. The 7th Charge is solely founded on a grant of money received by Colonel Ballantine in May 1824 ; and the accusation that he had misappropriated it, was preferred in a letter dated the 20th September, 1828:—in this instance, therefore, the period intervening between the commission of the offence and my accusation, instead of ten years, is a little more than four years ; and the misappropriation, or rather conversion, of the money to his own use, extended over these four years likewise. The above corrections are of course made under a supposition that the charge of culpable and inexcusable neglect against the Residency ceased from the date of accusation. If it extends beyond this, it would be tantamount to making us responsible for the measures of Government, or, in other words, for the delay of *three years* which occurred between the date of accusation and that of any formal enquiry being instituted. Be this as it may, in order to have escaped so injurious and unmerited a reflection as is contained in the passage I am remarking upon, it would have been far preferable for me, in a worldly point of view, had I had sufficient laxity of morals to have declared that Colonel Ballantine's accounts were all right, and made up all actual deficiencies out of my own pocket ; and I will

add, such a course would have been more conducive to good government, than that such a commentary on my proceedings should have issued from authority.

I beg, however, further to observe, that I think his Lordship in Council is altogether wrong in his premises, and that, instead of this inconvenience (and who has borne so large a share of it as myself?) being justly imputed to the Residency, it should be charged against the person who, in the first instance, carried away the cash, and still refuses to produce the public accounts traced into his possession. What inconvenience would have resulted from the alleged neglect of the Residency in not calling upon Colonel Ballantine to account for his "supposed realizations until the month of August 1827," had he then fairly accounted for them? None occurs to me, except that he would have intermediately derived benefit from the use of the money from 1822 to 1827; but as the system Colonel Ballantine admits he pursued, of lending loans to Chiefs at 12 per Cent. interest, is not even noticed, and much less censured by Government, a profit of the above kind could scarcely be excepted to. In lieu, however, of rendering an account, Colonel Ballantine, in his letter of the 28th of September, 1827, altogether evaded doing so, and replied in such terms as to lead any one to infer that he had not one Rupee of Mohsullee to account for, although at that very time he had at least 24,000 Rupees in his deposit. Can an evasion of this kind be set down to my neglect? Can I be made responsible, because Colonel Ballantine, "by an unintentioned though unaccountable mistake," omitted to enter Rupees 24,727 of Mohsullee in his accounts of March and September 1828? Am I to blame because he took away the English Mohsullee account kept by Anund Row, and, refusing to produce it at Ahmedabad, substituted for it one in the Gujarattee language, containing forty-three erasures at corresponding places under different entries, which were undeniably proved to have been made for the purpose of concealing as many references to another account not produced?—All these serious acts of dishonesty are passed over in silence; and, whilst the Residency is reflected upon as the cause of the inconvenience, and severely censured for an omission, which, after all, can amount to nothing more than an official oversight, Colonel Ballantine's abstraction of the Mohsullee, and retaining it in his possession under the above circumstances of great aggravation, simply calls forth the remark, "as regards Mohsullee, an item under that head, amounting to Rupees 24,727. 1. 88, will be found among those for which Government adjudges Colonel Ballantine to be liable." I search in vain for any cause why the censure of his Lordship in Council is so unequally distributed. Those who omit to call for an account are severely blamed, whilst no censure, much less culpability, is held to attach to Colonel Ballantine for having appropriated the money to his own use for several years, and for not entering one reea of it into two accounts he rendered to Government, one of them six months after his removal from the Mahee Caunta. I may, at least, say there is in his Lordship in Council's decision on this case a marked desire to acquit Colonel Ballantine, or to diminish his responsibility, and to inculcate the Residency; but the censure passed on the latter, admitting it to be deserved to its full extent, can never exonerate the Agent; for Colonel Ballantine is not prosecuted or blamed (at least this is not the immediate offence laid to his charge) for *delay* in paying these demands. That seems entirely overlooked. All that is required of him is payment at this late period; and this he strongly contests, and to a great extent successfully so, by declining to produce the Agency accounts in his possession.

7. Paragraph 19 contains the dissent of Government from the finding of the Commission on the 6th Charge; and, for want of evidence against Colonel Ballantine, acquits him.

I beg to observe that Colonel Ballantine himself supplied ample evidence, that if he did not make the Bazar levies himself, he caused others to do so; and as he entirely failed to shew that any other person was responsible, the finding of the Commission must hold good in law, on the universally acknowledged principle, "*Qui facit per alium, facit per se.*" If this is not admitted, no man could

ever be found guilty of any kind of extortion ; he would merely have to say he did not *himself* levy the money extorted, but only ordered another to do so. At the same time I am quite prepared to admit that I did not foresee that Colonel Ballantine would retract the admissions of the 6th Charge I found made in his Report of October 1829. Considering that Report, as emanating from the Defendant, to contain unexceptionable evidence, I rested my case on the admissions made in the 81st paragraph ; and in consequence of the abrupt termination of the Commission's proceedings, I was not able afterwards to call evidence in refutation of the Defence.

8. *Paragraph 20* contains the reasons of his Lordship in Council for differing in opinion from the Commission in their finding on the 7th Charge, and declares Colonel Ballantine not to be liable to be called upon for any payment on account of Seerpao.

The first of these is the verbal explanation given by His Highness the Guicawar on the 13th, and again on the 16th of May, 1833, or more than one year after the Commission was closed, with regard to his intention in making the Seerpao Grant, *viz.* that he intended it to be disbursed in making presents generally, and, not as I contend, and as the Government of 1830, and the Commission contended, for presents to be made to the Tributaries and their Carbarries only, according to a scale specified in lists framed by Colonel Ballantine himself, and subsequently confirmed by the Guicawar.

As the person directed by Government to prosecute Colonel Ballantine, and as I am informed I am responsible to prove this and every other Charge I have advanced, I feel that I have a right to shew— 1st. That His Highness's declaration, admitting it to have been fairly and voluntarily obtained, is not evidence to which any Court of Justice would attach the slightest credit. 2d. That it is at direct variance with Colonel Ballantine's own admissions and Defence. 3d. That Colonel Ballantine, during his mission to Baroda, when the declaration was obtained, made a most unjustifiable and disgraceful attempt to intimidate His Highness, which would alone affect its validity.

9. In support of the first proposition, I cannot do better than refer to the *Precis of Proofs* on the 7th Charge, transmitted to Government under date the 10th of October, 1833. I there shewed that the grant originated in a letter from Colonel Ballantine, forwarding to the Resident at Baroda a petition from one of the Mahee Caunta Chiefs, "that he might receive an annual present on payment of his "Tribute," and representing that "*the whole of the Tributaries*" had made a similar petition ;—that the question being submitted to Government, it was left optional with the Guicawar to comply with, or refuse the grant ;—that the right claimed was partially recognised by the Guicawar, who furnished two lists in illustration of the custom in regard to presents which prevailed in the Mahee Caunta when it was under his own management ;—that on these lists being sent to Colonel Ballantine, he transmitted a revised list, framed, as his official letter stated, "*after carefully comparing the same with the claim of the Zemindar,*" and made it to be understood that it had been framed with the view of effecting "*an equitable adjustment and appropriation of the Grant to each Tributary ;*"—that the Guicawar objected to this list, and that, in endeavouring to remove his objections, Colonel Ballantine invariably argued the question as an acknowledged right or claim of the Tributaries, which they had enjoyed "*from the first institution of the Mooluckgeery system,*" for which in many places the Chiefs "*possess the written authority of the Soobas, or local Officers ;*"—that the Guicawar for a long period refused to ratify this amended list, but ultimately did so in a note addressed to the Resident, agreeing that "Rupees 7705 should be annually deducted from his Tribute for annual presents to the Chiefs of the "Mahee Caunta and their Carbarries, on payment of their Tribute, according to the list furnished by "Colonel Ballantine," with retrospective effect for five years ;—finally, that in virtue of this Grant, Colonel Ballantine received Rupees 61,640, which, in the words of the Charge, he is stated "to have "disbursed in a way different from that which was intended," and to have "appropriated the whole, "or the greater part of this sum to his own benefit."

Now, as Colonel Ballantine's Prosecutor, I feel myself called upon to state, that when such unexceptionable evidence exists to prove the origin and intention of the Grant, it is contrary to all ordinary rules to reject it altogether, and to accept as a substitute the oral declaration of the Grantor of the Grant. The records of the time are plain and intelligible, and bear not only the signature of the Resident, and of Colonel Ballantine, but likewise that of the person who makes the verbal declaration. In short, the Guicawar's oral assertion of the present day has been preferred, as to an official transaction of ten years' standing, to his records of the time—to Colonel Ballantine's and the Resident's correspondence of the time—and, as I shall in the sequel shew, to Colonel Ballantine's own Defence : and upon this assertion he is acquitted, and the decisions of the Government of 1830, of the Commission, and I believe of Mr. Borrodaile, have all been reversed.

If any force is due to the above remarks in the abstract, they are strengthened beyond measure, and rendered irresistible by a fact altogether unnoticed in your letter to the Commission, that *this oral evidence* is directly contradicted by the *written evidence* of the same person twice previously recorded—once at the instance of the Right Honourable the Governor, and a second time through Lieutenant Colonel Burford. Surely this undeniable fact must be deemed sufficient, at all events, to neutralize the evidence of the deposing party—to render, in short, His Highness the Guicawar's contradiction of his own records worth nothing—and to engender a suspicion, almost amounting to certainty, that the oral assertion, contradicting the written answers of His Highness, and at variance with other evidence of the most unexceptionable nature, must have been obtained by Colonel Ballantine by unfair and improper means.

10. I cannot, however, content myself with simply alluding to this glaring contradiction in His Highness's testimony, because the two *written answers* confirming the case of the Prosecution, are not alluded to in the decision of his Lordship in Council ; though the *oral answer* is made the first and principal ground of Colonel Ballantine's acquittal on the 7th Charge. It is requisite that I should state how the former were obtained.

11. His Lordship in Council must recollect that, soon after the Commission was appointed, Colonel Ballantine requested that His Highness the Guicawar might be interrogated on his behalf ; and that Government first ruled that it would not be proper that he should be referred to—I presume because a principal object of the appointment of the Commission was to ascertain what were the demands of the Guicawar Government against the British Government, as Collector of the Mahee Caunta Tribute. The Right Honourable the Governor, however, being at Baroda, deviated from the above resolution of Government, and appealed to the Guicawar to state what was the object of the Seerpao Grant of 1824, and for what purpose, and in what manner was it to be appropriated, and for what purpose were the arrears granted. On the 8th of April, 1832, His Highness answered as follows—“ It was settled that Rupees 7705 should be paid annually as Seerpao ; on which account this sum “ was ordered to be given to the Zemeendars, &c. ; and with regard to the arrears,” he stated “ they “ were given, because in Sumvut ¹⁸⁰⁰ ₁₈₂₃₋₂₄ a settlement was concluded for giving Seerpao to the Zemeen- “ dars, and at the time Colonel Ballantine gave Seerpao from S. 1870 in the said Country ;” and that no accounts “ were required, because the sum granted was settled to be annually distributed according to a “ memorandum that had been furnished by Colonel Ballantine,” i. e. Colonel Ballantine's list, dated in June 1823.

12. For some reason I am not acquainted with, his Lordship in Council was not satisfied with the above explicit answer ; but, in order clear up all doubts on the subject, Lieutenant Colonel Burford was instructed to ask His Highness to state what was the intention of the Seerpao Grant—whether to enable Colonel Ballantine to make presents generally, or whether it was to be exclusively confined to the Tributaries, and whether the latter could demand Seerpao annually as a right ?

On this question I must take the liberty to remark that, however appropriate it may be considered in the abstract, when viewed in connection with a case of importance that had been judicially investigated, it partakes of the character of a "leading question." His Highness the Guicawar's answer, however, was a second time entirely confirmatory of the Case for the Prosecution, or in conformity to what is stated in the 9th paragraph. In both instances it is quite clear that His Highness's evidence is perfectly credible:—his answers are manifestly founded on an examination of his records; whilst the answers, on the one hand, confirm those records, the records confirm the truth of the answers.

13. On a third and fourth appeal, however, His Highness is alleged to have falsified, not in writing, but verbally, his first and second answers, his own records, and those of Government. The latter are all set aside, and the former are accepted, and assigned as the first and chief reason for acquitting Colonel Ballantine on one of the Charges I am told I am bound to prove, and for declaring that the Mahee Caunta Tributaries are not entitled to a Grant exclusively applied for and conceded in their name, for the purpose of making annual presents to them, which it was stated they had enjoyed from the "first institution of the Mooluckgeery."

14. Although his Lordship in Council has been pleased to rule that, as far as Colonel Ballantine is concerned, his lists are only a general estimate, and do not therefore call upon him to account for the Seerpao he has received, I am informed that it has been also ruled that, after Colonel Ballantine's time, the Seerpao Grant shall be distributed in exact conformity to these very lists, making them, therefore, binding upon all parties, except the person who framed them. I must state that by this proceeding Government declares that it will permit Colonel Ballantine to construe, for his own advantage and benefit, public documents differently from the way that all others construe them. So little uncertainty does there appear to be of the real scope and intention of the Grant, that, notwithstanding the declaration of His Highness, it has been ordered that the Seerpao shall be distributed according to Colonel Ballantine's lists, *i. e.* in a manner different from what the Guicawar intended. It will, I fear, be rather difficult to convince the Tributaries of the justice and consistency of these conflicting decisions, and to satisfy them that they are not equally entitled to receive the Seerpao they have petitioned for during Colonel Ballantine's administration, as after it: one of these decisions, moreover, involves the admission of a principle, against which, as Public Prosecutor, I think I am entitled to protest, *viz.* that a public Officer may obtain a large sum of money for a particular purpose—may charge it as having been disbursed in the way intended—and afterwards, when it is discovered that it was not so disbursed, may claim and be adjudged to be relieved from all responsibility on the subject, though failing to shew that he had disbursed it *on any public purpose whatever*, and though confessedly having within his reach accounts of his disbursements, which he declines to produce at the call of Government, as well as that of a Court of Enquiry of his own seeking.

15. I now come to the second proposition, *viz.* that His Highness's declaration is worth nothing, because it is at variance with Colonel Ballantine's Defence. This is proved by the following extract from that Defence, which I may observe is taken verbatim from the pamphlet he has presumed to publish in vilification of my character:—"In short, Gentlemen, the Grant was intended for the public presents of the Agency; and though the correspondence relative to the Grant that has been put in, might lead you to suppose that it was only on settling the Tribute, the Chief was entitled to a present, and that this Grant was solely and exclusively to be confined to the presents to the Tributaries, it was not, in fact, so intended. It was desirable, Gentlemen, when the management of the Mahee Caunta was transferred from the Guicawar's hands into our own, and the British Government would not sanction any presents for the Agency, that a sum of money should be obtained from the Guicawar for the purpose; and as some ground was necessary to be urged to him for the Grant, the policy—the expediency of the measure was recommended—the tie it would be as it were in binding the faith of the Tributaries to their pecuniary obligations; and for them the Grant was principally

“and ostensibly recommended and urged, because the Tribute was of the first importance to the Guicawar; and for the Tributaries principally and ostensibly the Grant was finally sanctioned by the Guicawar, because the Tributaries were the persons principally interested in the Grant.”—His Lordship in Council will find that this passage was commented upon, as follows, in my reply to the Defence:—“The above passage contains an undisguised acknowledgment that Colonel Ballantine surreptitiously, and under false pretences, obtained the concession of the Guicawar to the Seerpao Grant, coupled with the insinuation that the British Government had rendered such a discreditable proceeding on his part necessary, by withholding its sanction to such presents as were required to be made in the Mahee Caunta. That Colonel Ballantine did obtain the Grant under false pretences, and that he did not afterwards appropriate it to the purpose for which it had been granted, is rendered perfectly clear by his own admissions; but it is unnecessary for the Prosecution to observe that he alone was concerned; and that introducing the name of Government, as in any way countenancing so dishonourable a transaction, is altogether without excuse, since he never made any representation whatever respecting the ordinary receipts and issues of the presents of the Agency.”

16. The chief ground on which Colonel Ballantine is relieved from responsibility is, that the Guicawar, in contradiction to official documents, and his own evidence twice previously obtained, has asserted, on a 3d and 4th appeal, that the Grant was intended by him for making *presents generally*. In the passage above cited, however, Colonel Ballantine acknowledges that he practised deception on the Guicawar; and in order to obtain a fund for presents of which his own Government would approve, the Agent and the Resident obtained one in the name of the Tributaries from the Guicawar. Colonel Ballantine, however, positively states in his Defence, that the Guicawar was no party to the collusion; that His Highness would never have consented to give money for presents generally (certainly not, for such a demand would have been a violation of the Treaty of 1820), and some pretence was requisite, and therefore the demand was made on the part of, and in the name of, the Chiefs. These admissions are quite fatal to the *oral declaration* of the Guicawar; for how, may I ask, can His Highness now say with truth, that the money was given for presents generally, when Colonel Ballantine unequivocally declares that his intention so to apply it was designedly concealed from the Guicawar, because such a disclosure would have been fatal to the concession? To have made His Highness's explanation consistent with Colonel Ballantine's Defence, the former should have said—“I certainly gave the sum of Rupees 7705, intending it to be distributed according to a list framed by Colonel Ballantine, after a careful investigation into the claim of each Tributary; and the scale of distribution being thus fixed, I required no account of the disbursement. I have since heard it has been applied differently, or in giving presents generally, and have no objection to offer to this deviation from my original intention.”—The inconsistency is monstrous and manifest, not only between the Guicawar's explanation and the official documents of 1821 and 1824, under which the Grant was obtained, but likewise between the Guicawar's story of to-day and Colonel Ballantine's story of to-day; for if His Highness did really give the Grant for *presents generally*, what becomes of Colonel Ballantine's assertion, that such application, though intended by him, was *studiously concealed* from the Guicawar, and that it was felt most essential to the success of the negotiation, to make His Highness believe that nothing else was to be done with the money but to provide annual presents to the Chiefs, which they claimed as a right, founded on immemorial usage?—I trust I shall be excused obtruding these observations on the notice of his Lordship in Council, on the simple grounds that Colonel Ballantine has been acquitted of a Charge which I am held responsible to prove, chiefly on evidence which would be accepted by no Court of Justice that was ever yet constituted, in consequence of the numerous fatal objections attaching to it.

17. I now proceed to the third proposition, viz. that Colonel Ballantine made an attempt to intimidate His Highness during the mission at which the *oral declaration* under discussion is alleged to have been made by the Guicawar. I alluded to this proceeding at the close of my vindictory letter

of the 10th of August last, and assigned it as an additional reason that I should be permitted to submit my present observations to Government. His Lordship in Council will recollect that I strongly protested against this mission at the time, and almost predicted what has actually occurred, viz. that Colonel Ballantine would resort to improper measures, in endeavouring to effect the objects of that mission. I was not, in the first instance, apprized of this mission; and though held responsible to establish the facts reported in my letters of the 20th September and 17th of December, 1828, I have not until now had an opportunity of commenting upon the result of a measure which was seriously to affect the final decision upon those facts.

18. Colonel Ballantine was directed by Government to proceed to Baroda in April 1833, to settle, with the assistance of Lieutenant Colonel Burford, his accounts with the Guicawar. Soon after his arrival, he solicited His Highness to grant him a private interview in one of his gardens, called the *Mustoobagh*, in the environs of Baroda. This His Highness declined; but as Colonel Ballantine was very pressing, three persons, named Bhou Pooranick, Runchoor Mehta, and Tatoo Pemit, were deputed to meet him on the part of the Guicawar. Colonel Ballantine, accompanied by his son, proceeded to the *Mustoobagh*, and exhibited to His Highness's agents certain letters, purporting to bear his seal and signature, and to be addressed to the Chief of Joudhpore and other Native Rulers of India, and the Pasha of Egypt, inviting them to assist him in hostile designs against the British Government, on account of its tyranny and oppression over India.—His Highness declares these papers are forgeries, got up to intimidate him; and that a Faqueer of Hendostan, named Peeala Shah, forged them. I am also informed that His Highness has officially complained against their exhibition, and has demanded that the papers should be given up to him; but as yet I am uninformed of the result of his complaint, or what enquiries have been instituted with the view of ascertaining how documents of such a treasonable nature originally came into Colonel Ballantine's possession—why he exhibited them to His Highness's agents—and why he neglected to communicate them to his own Government.

19. It is immaterial whether the papers are genuine or forged. If they are genuine, Colonel Ballantine is clearly guilty of misprision of treason: if forged, they could only have been exhibited but for one object, viz. to extort from the Guicawar a settlement of the Mahee Caunta accounts according to Colonel Ballantine's wishes. I feel myself entitled, as Colonel Ballantine's Prosecutor, to protest against the acceptance of any evidence obtained from the Guicawar during a mission at which such a dishonourable proceeding was resorted to; and it is but fair to add, that I do not conceive that the right of the Mahee Caunta Tributaries to the sum of 61,640 Rupees, received on their account by Colonel Ballantine, should be in any way affected by any thing which is stated to have taken place during that mission; more particularly when it is recollected that His Highness the Guicawar, no doubt with reference to the proceedings at the *Mustoobagh*, requested Government to order Colonel Ballantine and his son to leave Baroda, applying to them the ignominious term of "Fisadee."

20. The second reason assigned by Government for its decision on the 7th Charge, is the fact that Colonel Ballantine made presents previous to the Seerpao Grant.—This I freely admit; but the proceedings at Ahmedabad not only likewise proved that he also received presents, but likewise a strong presumption that, independent of the Seerpao Grant, his receipts exceeded his issues; because he received valuable presents from His Highness the Guicawar, and the principal people of Baroda, to whom, by the rules of the Service, he could make no return. This material circumstance is not noticed by Government.

21. The third reason is, that the Resident suffered the payment of Rupees 38,535, on account of five years' Seerpao, to Colonel Ballantine, without offering any objection, which Government rule is to

be regarded as an acquiescence, on his part, of the system which Colonel Ballantine had till then pursued, and of its being continued; together with the fact that neither the Resident nor the Acting Resident found fault with Colonel Ballantine on this head, or made any enquiries, or called for accounts to ascertain how he disbursed the Grant. I cannot imagine upon what principle of justice the Resident can be said to have acquiesced in the system pursued by Colonel Ballantine, when he deliberately and repeatedly declared before the Commission, that he was not aware of its existence, or that Colonel Ballantine transferred to his own purse the sum above adverted to. He stated that his impression was, that the arrears were to be distributed among the Tributaries in whose name they were received, according to Colonel Ballantine's amended list. He suffered the money to be received, imagining that it would be disbursed according to that list, which rendered the disbursement what is usually called a "fixed disbursement," requiring no periodical account whatsoever. How could the Resident or the Acting Resident, in the absence of just cause of suspicion, presume to doubt that money applied for on a particular ground—after a long and tedious negotiation, in which that particular ground is never abandoned, and charged in Colonel Ballantine's accounts as having been disbursed accordingly—was disbursed differently? And in regard to no enquiries being made, how could any have been instituted in the absence of complaint, without shewing a reprehensible distrust of the integrity of a public Officer, against whom no grounds of suspicion had then been excited?

22. The fourth reason is, that the Tributaries never complained on the subject before Colonel Ballantine left the Mahee Caunta. It seems to have escaped the notice of his Lordship in Council, that Colonel Ballantine laboured, and with success, to prove, by the evidence of his own witnesses, that the existence of the Seerpao Grant was studiously concealed by him from the Tributaries, and that Mr. Hornby, who was for several years Colonel Ballantine's Assistant, and for some months Acting Political Agent, declared before the Commission that he was totally ignorant of the Grant having been made in their favour, until he received an account, dated the 16th of March, 1828, in which the sum of 7705 Rupees was entered as annually due to the Chiefs, on account of Seerpao. These are legally proved facts; and how, therefore, I may ask, could the Tributaries make complaints regarding a Grant which they were not aware had been conceded to them, the person who had obtained it avowedly in their name, and whose duty it was to have informed them, having designedly kept it secret from them? It may further be remarked, that even on the supposition that they had become acquainted with the fact of the Grant having been made, complaints on their part were unlikely; because they could only have been made through Colonel Ballantine, as no direct appeal could have been made to the Resident.

23. In the 21st paragraph the blame of misappropriating the Grant is cast upon Mr. Williams, Colonel Ballantine, and myself. I really cannot avoid respectfully remonstrating against culpability being thus invariably imputed to the Residency. No part of the sum of 61,640 Rupees passed through the hands of either the Resident or myself; and both of us have solemnly declared that we were ignorant of its misappropriation until it was reported to Government. The case may be stated thus:—A public Officer applies for, and obtains, a Grant for a specific purpose, and charges the amount in his accounts as disbursed accordingly. The person who negotiates the Grant, declares publicly in a Court of Justice, that he had no knowledge of any deviation from the original purpose of the Grant, which was conceded in the shape of a fixed disbursement, according to a list officially furnished by the Officer who applied for it. The disbursing Officer resides at a different station, seventy miles distant from where the person who negotiated the Grant is stationed. It is afterwards discovered that it was falsely so charged, and that without any account rendered; that the Officer who received it, transferred it to his own pocket, studiously concealing from those for whom it had been applied, the existence of the Grant; and when all this is proved and admitted by the Officer himself, his Lordship in Council is pleased to determine that his superiors, through whom his accounts passed, are to blame for not taking care that no such false charge was made.—I do not consider that I deserve the blame here cast upon me. No superior Officer has a right to suppose

that his subordinate will make a false entry in a public account on any pretence whatever ; and there were no complaints previous to 1828 upon which to found an enquiry ; and for the reason stated in the preceding paragraph, there could be none :—neither were there any deficiencies in the documents required to check abuse ; for the Grant having been obtained, under a list defining how it was to be distributed, drawn up “after carefully comparing it with the claim of the Zemeendar,” it could not be expected that the Agent should furnish, or that the Resident should require, receipts from each person interested in it.

24. In the 22d paragraph, I must take the liberty of remarking, there is abundance of conjecture and presumption in favour of Colonel Ballantine, but no proof ; and I cannot err in stating that, in a case like the present, where so much unexceptionable evidence exists, inferences and presumptions are not admissible. His Lordship in Council is pleased to observe that, when the Grant was made, “no doubt “was then expressed by the Resident of the correctness of Colonel Ballantine’s assertion.” What, may I ask, was the assertion which Colonel Ballantine made, and which the Resident did not question ?—It was that the money had already been expended by Colonel Ballantine, and was now to be applied to reimburse him :—so says Colonel Ballantine, the party interested in the point at issue. But, unluckily, there is a counter assertion on the part of one uninterested in the result, the Resident, who solemnly denies that any such assertion was ever made at the time, and that such an appropriation of the Grant ever came to his knowledge. This surely should exempt the Resident from blame for not having questioned Colonel Ballantine’s assertion. In regard to the presumption that His Highness was not likely to concede so large a sum, “if he had not been persuaded that it was a debt due to the Agent,” it may be observed—1st, that it is contrary to the Treaty of 1820, expressly exempting the Guicawar from responsibility for any such debt ; 2d, to the personal character of the Guicawar, which renders it extremely unlikely that he would voluntarily undertake to liquidate a debt with which he had no concern ; and 3d, as elsewhere shewn, to Colonel Ballantine’s Defence, in which he acknowledges that the Guicawar was purposely kept in ignorance of the real object of the Grant. On the other hand, there was nothing inconsistent in His Highness’s conduct in conceding the Grant, after a tedious negotiation commenced in 1821, and terminating in 1824, under the impression that it was demanded from him as the right of those in whose name it was demanded ; and, as a matter of course, when this point was conceded, the Grant was made retrospective up to the period when the Mahee Caunta was entrusted to the superintendence of the British Government.

25. If the reasoning employed in the concluding part of the 22d paragraph is admissible, I cannot avoid observing that no person who is guilty of peculation, can be called to account if he succeeds in evading detection for a considerable period. His Lordship in Council is pleased to state that the Resident should have demanded an account in January 1826 ; and because he failed to do so, in the absence of any suspicion that the sum had not been disbursed as charged, when the fraud is discovered, and reported in September 1828, Colonel Ballantine is held not to be liable to be called upon to account for the money, although he himself acknowledges that he is bound to render an account, and that he possesses accounts of the transactions, which, however, he declines producing. To such an extent is this argument carried, that it is made applicable to the three last years’ Seerpao, although one of the items, 7705, was only first brought forward in his account dated the 16th March, 1828. With regard to Colonel Ballantine not having exercised “more than the discretion usually vested in Residents and Political Agents,” I must observe, that I am not aware of any Grant similar to the one under discussion, having been received by any other Resident or Political Agent. There is no parallel case to the present, of a British Officer obtaining a Grant from a Foreign Prince, and then converting it to defray an expence which, if it had really been made, should by Treaty have been borne by his own Government. With regard to the assertion, that if Colonel Ballantine did not properly appropriate the Grant, the Resident must have known it—I can only again repeat that this assumption is at variance with the direct and positive declaration of a man of honour, and of the highest character—the Resident himself.

26. His Lordship in Council is here again pleased to remark, that Colonel Ballantine is entitled to indulgence, "in consideration of the loose manner with which it is but too evident all parties conducted themselves." I have unfortunately failed in my attempt to convince the Right Honourable the Governor in Council that I do not deserve to be included in this remark; but I am sanguine that the facts and mass of approbation brought forward in my letter of the 10th of August last, will induce the Honourable the Court of Directors to judge differently, and that the severe animadversions of Government will not affect the character I have obtained for zeal, diligence, and general devotion in the performance of my public duties.

27. The 25th paragraph of the letter to the Commission contains his Lordship in Council's decision, finding Colonel Ballantine guilty of the 8th Charge, or that, in violation of the orders of Government, and of his official Oath, he neglected to keep and render an account of his receipts and issues of presents. In this instance also the Resident and myself are severely censured for what, at the most, can only be viewed as an official oversight, whilst the following facts, proved in aggravation of Colonel Ballantine's misconduct, are passed over in silence.

1st. The false account which Colonel Ballantine gave of the system, in regard to presents, which prevailed under his administration, in reply to a call from the Accountant General to render an account of the same.

2d. His subsequently claiming from Government the sum of Rupees 23,109, as the balance due to him on account of presents; no such claim being entered in two accounts he had previously rendered to Government.

3d. His transmitting to Government a set of compiled accounts of his receipts and issues of presents; and afterwards withholding the original accounts, from which he stated the former had been compiled.

4th. His substituting for these a falsified and interpolated account, referring to other accounts not produced, and containing fifty erasures, proved to have been made to conceal the connection which existed between Colonel Ballantine and the Firm of Soonderjee Sewjee.

5th. His converting to his own use the stock of presents in hand when he was removed from the Mahee Caunta, entering the same in his accounts at his own valuation.

6th. His failing to transfer to his successor any account or record of his receipts and issues of presents, as Agent in the Mahee Caunta.

28. In the 26th paragraph His Lordship in Council notices the opinion of the Commission, that Colonel Ballantine's witnesses are not entitled to credit; and, dissenting therefrom, states he sees no reason for supposing that Colonel Ballantine's witnesses are not as much entitled to credit as mine; but on the contrary, considering our respective situations, "he should be almost more disposed to place confidence in the evidence given by a Native in Colonel Ballantine's favour, than against him." Unfortunately the reasoning in this paragraph is opposed to facts the most decisive, proving Colonel Ballantine's witnesses to be almost, without exception, undeserving of credit:—against two of them an *alibi* was established; against others a denial of some one or more facts incontestibly proved from other sources; and, lastly, the evidence of fourteen witnesses on the Seerpao Charge was, with one exception, invalidated, by their exceeding their instructions, and attempting to prove that the system of presents was different from what Colonel Ballantine, in his Defence, and by his accounts, wished it to be believed it to have

been. Let me refer his Lordship in Council to the evidence of Heerachund Wusta, one of the witnesses against whom an *alibi* was proved, and to that of Nanjee and Govindjee, who both positively denied the fact that the former was the managing Agent of Soonderjee Sewjee's Branch Bank at Sadra; which two of the members of that Firm unequivocally assert he was during the whole period of Colonel Ballantine's Agency. I should ill have performed the duties of Public Prosecutor, had I not exposed the falsity of Colonel Ballantine's Native evidence. I did so most clearly in my reply to the Defence on the 7th Charge; and I do feel that his Lordship in Council, omitting to notice the facts upon which the Commission's opinion was founded, has not done me justice in contrasting the Native evidence of the Defence with that of the Prosecution, and giving the preference to the former upon a mere naked presumption, unsupported by one proved fact, though opposed to many facts. If this is just, I am quite unworthy of all future trust and confidence. With regard to the inference drawn from the alleged "timid character of the Hindoo race," in justice to myself, I must dissent from the propriety of its application to Colonel Ballantine's Native witnesses, who were almost all Rajpoot and Coolee Chiefs of the Mahee Caunta, or persons in their service. For instance, can it apply to Boodh Sing, Chief of Mugooma, who resisted Bombay troops, and was ultimately taken prisoner by a British force sent against him for harbouring outlaws?—or can it be applied to Sulbul Sing, the Chief of Mannsa, who was reported by Colonel Ballantine himself to have murdered, in the most barbarous manner, the wife of his adoptive father?

29. The 27th paragraph contains the animadversions of his Lordship in Council against the Commission, for availing themselves of the discretionary authority vested in them by their instructions to close the enquiry when they judged proper. Having already explained why I did not, as Public Prosecutor, object to the proceeding, although highly detrimental to the Prosecution, I shall of course leave it to the Commission to defend and justify their conduct. The Right Honourable the Governor in Council is, however, in error, in supposing that the Defendant was arrested "in the midst of examination of one of his witnesses, &c." The examination in chief of the witness referred to (Govindjee) *had terminated*. He had answered ninety-one questions proposed by Colonel Ballantine, and his cross-examination had commenced. This was arrested; and any injury which ensued was therefore on the part of the Prosecution, and not on that of the Defence.

30. In reference to the remarks of his Lordship in Council upon the purport and meaning of the evidence of Hunsraj, respecting the production of the books of the Branch Bank at Sadra, I beg to state that the doubts expressed by Government never occurred to any one—not even to Colonel Ballantine, who would doubtless have gladly availed himself of any uncertainty which existed, in order to escape the condemnatory inferences to be drawn from his refusing to grant authority for the books being produced. I am not acquainted with any man better versed in Gujerattee, the language in which Hunsraj's evidence was recorded, than Mr. Lumsden, the President of the Commission; and consequently no one could be more competent than that Gentleman rightly to interpret that evidence. No doubt exists but that Hunsraj was unwilling to produce the books; and therefore he required Colonel Ballantine's authority, which the latter evaded, by begging the question, and stating that he had no power over the Firm. This was the only reason why the books were not produced; for even had the parties not consented, as they had stated that the books contained Colonel Ballantine's accounts, if Colonel Ballantine had required their production for his justification, it would have been an act of great injustice to him to have withheld them; and Government would unquestionably have been requested to employ its authority (an authority which I may add is constantly exercised by Courts of Justice, even of the most inferior jurisdiction) to enforce their production; for it never can be pretended that any Sowcar has a right to withhold from the party interested, any portion of his accounts as concern such party. Were such a principle admitted, the stream of justice would often be interrupted; and I am firmly persuaded that, had Government exerted its authority on this occasion, and ordered Hunsraj to produce his books, he would not and could not have refused.

31. I am, however, able to afford information which will probably dispel the doubts raised by his Lordship in Council on this subject. The interrogatories put to the Partners of the Firm, and their answers, were, in the first instance, recorded in the English language. This is in perfect consistency with the practice of His Majesty's Supreme Court at Bombay; but it was considered advisable by the Commission that the evidence should be likewise obtained in Gujerattee, which was accordingly done; but the latter only were recorded by the Commission. I now annex copy of the answers in English, which are clear and explicit, leaving no doubt that the intention of the Deponent was to produce the books, on the receipt of Colonel Ballantine's authority to do so. At all events, a strict investigation of accounts is what no honest man need dread, or should shun; and, as Government has justly observed, the unwillingness evinced by Colonel Ballantine to have the books produced, clearly shews that there must be something in them which he is afraid to shew.

32. In conclusion, I beg to state that, in the review of his Lordship in Council of Colonel Ballantine's Case, many particulars of great importance are altogether omitted:—as, however, I find myself under the painful necessity of memorializing the Honourable Court of Directors against the proceedings of Government, I shall not here notice in detail those omissions. From the *proved facts*, of the greater part of the Mahee Caunta Establishment leaving the Public Service, and the Sadra Branch Bank breaking up when Colonel Ballantine quitted Gujerat—of Colonel Ballantine having left, not with his successor, but with his private Agent, all his account-books relative to his miscellaneous collections, or, as he designates them, his “extra receipts”—of his contradictory statements relative to the English Mohsullee account, kept by the Purvoo Annund Row, and the check on the Native Dufter—of his leaving his station on the 16th of March, 1828, the day that he sent his accounts to his successor at a distance, so that there could be no communication between them—of his being compelled to falsify those accounts by another account furnished through the Accountant General in September 1828—of his being compelled to falsify this latter also, by a third set of accounts in October 1829—of these last admitting for the first time a balance against him of Rupees 24,727, on account of Mohsullee—of the whole of these accounts being avowedly not original, but *framed*, the last in particular being stated by Colonel Ballantine to be “now (7th October, 1829) framed from the public accounts of the Agency”—and of his having uniformly failed to produce the originals, though repeatedly called upon to do so—of his having constantly clamoured for full investigation, and as constantly shunned it—1st, when he stated, in reply to the intimation that Mr. Sutherland was to try his Case, that he was about to return to England; a strange communication for a British Officer to make on such an occasion;—2d, when he objected to the Agent for the Prosecution before the Ahmedabad Commission framing his Charges as he pleased, from his letters of the 20th September and 17th December, 1828;—3d, when he refused to continue his Case before the Commission, after it had re-opened;—4th, in his protesting against Mr. Borrodaile's enquiry:—of his never having adduced any of the *valuable* evidence, oral and documentary, which he declared the abrupt termination of the Commission's labours alone prevented his exhibiting—of his repeated efforts to be allowed to settle his accounts direct with the Guicawar—of the readiness with which he obeyed the orders of the Government of 1833 to do so—of his having failed, as he himself admitted, to lay before the Guicawar, who he knew was ignorant of them, the very items of his accounts which were in question—from the whole of this prodigious array of condemnatory facts, not one inference is drawn to the disadvantage of Colonel Ballantine in the Government decision of the 8th of March last. The condemnatory fact of his having kept out of his accounts a sum of Rupees 24,727, which he was constrained to admit, eighteen months after he left his station, to be due from him, is glossed over by the expression, “an item to that amount will be found among those for which Government adjudges Colonel Ballantine to be liable.” The condemnatory fact of Colonel Ballantine having kept concealed from the Mahee Caunta Tributaries, his having solicited and obtained for them the Seerpao Grant of Rupees 7705, is altogether sunk in the Government decision; and it is even urged as an argument in his favour, that the Tributaries did not complain previously to 1828, when their doing so was rendered impossible,

through a positive act of delinquency on the part of Colonel Ballantine. The condemnatory facts of his copied "Present accounts," shewing that the Tributaries did not receive, even in *this* shape, an amount any thing like the amount of the Seerpao Grant, and that no less than 136 of the Mahee Caunta Chiefs *absolutely received nothing*—and of his original "Present accounts" being withheld—are likewise altogether overlooked in the Government decision; and it is assumed, against *all* the evidence, that the amount of the Seerpao Grant was, in fact, publicly disbursed in presents; and it is assumed, without any evidence whatever, and contrary to Mr. Williams's assertion, that Mr. Williams knew, when the sum of Rupees 38,525 was given to Colonel Ballantine, that it was intended to reimburse Colonel Ballantine for an expenditure from his private means for presents generally. The failure to furnish the "Present accounts" periodically, is viewed entirely as an act of accidental, and not as a wilful, omission; while it is proved to be the latter by Colonel Ballantine still withholding the "Present accounts," which, in October 1829, he admitted to be in his possession.—Lastly, the man whose misfortune it has been to have been compelled, in the course of his public duty, to bring Colonel Ballantine's delinquencies to light, instead of receiving thanks and approbation, has been visited with the severest censure of Government—is accused of being the cause of all the inconvenience entailed upon Government and the Service by their exposure—and is obliged to submit to be publicly defamed and traduced, and then prevented from justifying himself. I really feel that I have done nothing that warrants my being thus dealt with; and after having unfortunately failed in my endeavours to obtain redress from Government, I have no other alternative but to appeal to higher Authority.

I have &c.

(Signed) J. P. WILLOUGHBY.

No. 53 of 1832.

GENERAL DEPARTMENT.

To James Williams, Esquire, Political Commissioner for Gujerat, Ahmedabad.

SIR,

In acknowledging the receipt of your letter of the 4th instant, with its accompaniments from Mr. Lumsden, I have the honour to return the answers of Dewsee Soonderjee to the questions transmitted. Hunsraj is at present either in Goudul or Dhorajee; but I wrote as soon as your letter reached me, to desire his attendance at Rajcote, with any documents or accounts connected with the *Shop* at Saudra, which he might have in his possession; and I trust soon to be able to furnish you with his replies to the interrogatories of the Commission.

I have the honour to be, &c.

(Signed) WILLIAM LANG, *Acting Political Agent.*

Katteewar Political Agent's Office,
Rajcote, 11th February, 1832.

Dewsee Soonderjee's Answers to the Questions dated 31st January, and enclosed to the Political Commissioner by Mr. Lumsden on the 3d instant.—Recorded 8th February.

1st. I am a member of the Firm of Soonderjee Sewjee. My Partners are Ruttunsee, Hunsraj, and Kesowjee; and there was a *Shop* at Saudra, under the name of the Firm, during the whole of the time Colonel Ballantine was Political Agent in the Mahee Caunta; but it was established and conducted, without my consent or Kesowjee's, by Hunsraj, who alone derived the advantages or suffered the losses thereby—at least, I and Kesowjee had no further connection with it than by name. I do not know about Ruttunsee.

2d. I do not know much of the nature of the transactions the Firm became engaged in at Saudra, but believe they were principally *Poldaree*. Hunsraj, with Nanjee as his principal *Vukeel*, managed its affairs. I do not know what other Carcoons there were. The Firm acted as *Poldars*, into which the collections of Tribute, on account of His Highness the Guicawar, were paid. I do not know how the money was afterwards disposed of. Hunsraj must know all about this. I have never even seen the accounts.

3d. I do not know what part of the Guicawar's rights was paid into the Shop at Saudra, nor how they were afterwards disposed of. I only know that the Shop had *Poldaree* transactions, and infer that some part of these collections must therefore have passed through it.

4th. I do not know how the accounts were kept: either Hunsraj or Nanjee must have them; and you can ask them about producing them. I am certain that either Hunsraj or Nanjee has the *Dufter*; but I do not know what it contains.

5th. I am not aware of the remittance mentioned as having been made through our Firm in Sumvut 1883, or how it was effected; nor have I any documents in my possession from which I could ascertain any thing on this subject.

6th. I do not know any thing of this.

7th. Nanjee Jewraj was under the Firm, in the capacity of *Arteya* or Agent. I do not know whether he was as Partner of Hunsraj in the Saudra transactions; but he was certainly not a Partner in the Firm.

8th. I believe they are brothers-in-law. Luckmeedass's sister is Nanjee's wife—I am sure of this.

9th. I do not know any thing on this point.

The above answers were given to the questions ordered to be asked of Dewsee Soonderjee, after full explanation of their purport to that individual.

(Signed)

WILLIAM LANG, *Acting Political Agent.*

No. 62 of 1832.

POLITICAL DEPARTMENT.

To James Williams, Esquire, Political Commissioner for Gujerat, Ahmedabad.

SIR,

With reference to my letter of the 11th instant, I have now the honour to transmit the answers of Hunsraj Jethanee, who has just arrived, to the interrogatories forwarded by Mr. Lumsden.

I have, &c.

(Signed) WILLIAM LANG, *Acting Political Agent.*

Katteewar Political Agent's Office,
Rajcote, 25th February, 1832.

*Answers of Hunsraj Jethanee to the Questions directed to be exhibited to him by the President
of the Commission now sitting at Ahmedabad.*

1st. I am a member of the Firm of Soonderjee Sewjee. My partners are Dewsee Soonderjee, Ruttunsee Jethanee, and Kesoujee Soonderjee; and the Firm had a *Dookan* at Saudra during the whole of the time Colonel Ballantine was Political Agent in the Mahee Caunta.

2d. The transactions engaged in at Saudra were principally of a pecuniary nature—lending and receiving money, writing Hoondees, &c. Mercantile dealings to a limited extent were also carried on. Nanjee managed our affairs at Saudra; under him were Luckmeedass Dewjee, Jeram Manyar (since dead), and Wessunjee. Nanjee may have employed other Carcoons for a short time, and then discharged them, as he had full power to do so; but I do not know who they were, or how many. I was only six months at Saudra during the period Colonel Ballantine was Political Agent there; and Nanjee was, at that time too, manager of the *Dookan*. The above are all the Carcoons I am aware of as having been employed under him. The connection which existed between our Firm and the Mahee Caunta Agency was of a *Poldarce* nature:—the money collected was paid into our Shop, and afterwards disbursed or remitted according to Colonel Ballantine's orders.

3d. As I do not know what the whole of the Guicawar's rights in the Mahee Caunta were, I cannot say whether all the money, collected on that account by Colonel Ballantine, was first paid into our Shop, or only part of it.

4th. The accounts were kept in the mode usually adopted by Soucars. The monies received were credited, and the disbursements and remittances debited in the Chopra kept for that purpose. I do not know precisely under what head. The accounts are in my possession; but as they are between Colonel Ballantine and myself, I cannot, as a Soucar, consent to shew them without his permission. I have not got the Dufter with me here, and therefore cannot immediately ascertain under what precise head the accounts with Colonel Ballantine were kept.

5th. In Sumvut 1883 the *Munotudars* of the different Tributaries paid the Guicawar Tribute as usual into our Shop, and we sent Hoondees for the sum remitted to Baroda.

6th. I have *Chopras* in my possession, in which the above transaction is recorded; and if Colonel Ballantine wishes it, I can produce them.

7th. Nanjee Jewraj was a Wakeel in the employment of our Firm. He had no share in it.

8th. Luckmeedass Dewjee and Nanjee Jewraj are brothers-in-law. The sister of the former is Nanjee's wife.

9th. I do not know whether the Mahee Caunta Tributaries were called upon to pay the Tribute in 1883 earlier than usual. Some of the *Nishadars* probably paid their instalments a few days before they were due into our Shop, as we were Soucars; but a reference to the Dufter would be necessary to ascertain this.

The above answers were given by Hunsraj Jethanee to the questions ordered to be put to him, after a full explanation of their meaning.

(Signed) WILLIAM LANG, *Acting Political Agent.*

(True Copy.)

J. P. WILLOUGHBY, *B. C. S.*

Appendix D.

Summary of Instances in which the Memorialist considers himself and others to have been, either directly or indirectly, aggrieved by the Decision of the Government of 1834, upon the Case of Colonel Ballantine; principally taken from his rejected Letter contained in Appendix C.

1st. Colonel Ballantine himself acknowledges that the Agency accounts were in his possession in October 1829, eighteen months after he delivered over charge of the Agency to his successor. He likewise admits that he carried away with him, by mistake, an English Mohsulle account, and that he had in his possession a check account of his Receipts and Issues of Presents, neither of which would he produce when required by the Commission. Lastly, he unequivocally admits that when he left Gujerat, he deposited seven of the Agency account-books with a private Agent, named Luckmeedass, instead of transferring them to his successor. The third Charge against Colonel Ballantine was, that he failed to deliver over the account-books of his Office to the person appointed to succeed him; but, in direct opposition to the above admissions, corroborated also by other evidence, the Government of 1834 annul the decision of the Government of 1830, and of the Commission, and acquit Colonel Ballantine of this Charge, although, incredible as the fact may appear, this acquittal is vitiated by Government informing* Colonel Ballantine that "the keeping back the seven account-books, as

* Letter to Colonel Ballantine, dated the 8th March, 1834.

"proved by your own witnesses, Nanjee and Jairam, must be considered a most suspicious circumstance."

2d. In the otherwise careful review of the evidence produced by both parties on the 1st Charge, the instructions* issued to Colonel Ballantine by the Resident, "to deliver over to Mr. Hornby the "Quick and Dead Stock of the Agency" Cash Balances and Presents, exchanging "the usual "receipts," is not even alluded to by Government. Mr. Hornby and the Resident, who had no interest in not acting conformably to the Regulations, are severely reflected upon; whilst Colonel Ballantine's disobedience of the Resident's explicit instructions is not deemed worthy of a remark.

3d. Mr. Hornby, who was Colonel Ballantine's *temporary successor*, is severely censured by Government for not having taken the precaution of causing lists to be made of the Records he received. Mr. Willoughby, Colonel Ballantine's *permanent successor*, takes this precaution, and great deficiencies are discovered. Upon this proceeding of Mr. Willoughby's, Government remark that the persons who framed the lists, "were satisfied that they were meeting the views of their employer" (Mr. Willoughby) in the course they pursued;" *i. e.* from the context, furnishing false evidence against Colonel Ballantine. It necessarily follows that either the censure passed upon Mr. Hornby, or the indirect reflections cast upon Mr. Willoughby, by direct imputations upon the persons he employed to frame his lists, *must be undeserved*.

4th. The evidence of one of the chief witnesses for the Prosecution, the Moojmoomdar of the Mahee Caunta, is considered pure and honest by the Commission who examined him, and false by the Government. It is for the Honourable Court of Directors to determine which is the most competent to decide upon the degree of credibility due to a witness—the Court who examines him publicly, in the presence of all parties interested; or the Court to whom the *written proceedings only* are transmitted for ultimate judgment. The Moojmoomdar was in no way interested in the issue of the trial; his evidence was, in many essential points, corroborated by Colonel Ballantine's admissions†, or by facts proved from other sources, and the Commission consequently deemed him entitled to credit. The Government, however, arrive at a different conclusion, and suppose the witness "thought he would "gratify his employer" by deposing falsely. In his remarks the Memorialist has pointed out the *moral impossibility* that such a feeling as is imputed to the witness could have entered his breast, unless the Memorialist had suborned him, by giving him reason to suppose that criminating Colonel Ballantine would gratify him, and of this base conduct Government expressly acquit him.

5th. The supposition of Government, that Mr. Hornby by his conduct "evinced a confidence "and approbation in him that all was right," is shewn to be directly opposed to his correspondence at the time, and to his evidence before the Commission.

6th. The opinion that Colonel Ballantine's departure from Gujerat was precipitate, is shewn not to refer, as supposed by Government, to the period when he informed Mr. Hornby "he was to be "placed" in charge of the Agency, but to the date on which he sent the Agency accounts. This opinion cannot be controverted; because it was proved that the transmission of the accounts and Colonel Ballantine's departure were on the same date, and that he left three days before the accounts reached Mr. Hornby; who, when he received them, went in search of explanation, but in vain, as Colonel Ballantine had already quitted the Province.

* Dated 13th February, 1828. Vide Exhibit 21, C. P.

† For instance, his testimony in regard to the Records is strongly confirmed by a Register of the Records furnished by Colonel Ballantine; and in regard to the abstraction of the Agency account-books, by Colonel Ballantine's positive admissions that he did abstract them.

7th. The observation of Government, that Colonel Ballantine could not evade enquiry by proceeding to Bombay, is remarked upon, and various ways are pointed out in which he has greatly benefited by that step: it has, in fact, enabled him to protract a final decision on his Case for *the unprecedented period of six years!*

8th. Government find Colonel Ballantine guilty of having in his possession, unaccounted for, an unspecified amount of interest collected by him previous to September 1823; but decide that he cannot be made liable for the same, or be compelled to produce the accounts, by which alone the actual amount can be proved. Your Memorialist has remarked that this may be *excellent law*, but that it is quite inapplicable to a case, like the present, where a public servant has demanded an investigation, to prove that his accounts are correct, and that he has not embezzled the public money.

9th. The fact, however, is, several items of interest were legally proved against Colonel Ballantine: he is not, however, required to refund these, although charged against him by the Commission, and although two* of the items were extracted from his own accounts.

10th. In the 16th paragraph Government observe—"If there was an unauthorized change in the periods at which the Tribute was originally payable, Mr. Williams, the Resident, who allowed it, is just as much to blame as Colonel Ballantine; and if the Tribute was not realized, and paid with punctuality to the Guicawar, the Political Agent is not the only culpable person. The irregularity noticed by the Resident, and now charged by Mr. Willoughby against Colonel Ballantine, *should at the time have been reported to Government*, when an enquiry would have been made, and the real state of the case ascertained; but his Lordship in Council cannot perceive on what principle of justice Colonel Ballantine alone can now be called upon to pay interest on collections realized by him many years ago, irregularly perhaps, but with the knowledge of the Resident. If the Guicawar has any demand against the Government on this head, which his Lordship in Council doubts exceedingly, Colonel Ballantine's superior, Mr. Williams, is, the Right Honourable the Governor in Council considers, equally liable for it."

This passage evinces in the strongest manner the disposition of Government to diminish Colonel Ballantine's culpability, by censuring undeservedly the Baroda Residency; and this constitutes the chief of the grievances the Memorialist has to complain of. It contains two charges against the Resident:—the first, or that he allowed a delay to occur in the realization of the Tribute, has been elsewhere refuted by the Memorialist†; whilst, with regard to the second, or that he failed to report the unauthorized change made by Colonel Ballantine in the periods at which the Tribute was originally payable, incredible as the fact may appear, this measure was the subject of a lengthened correspondence between the Resident (who strongly protested against it as a violation of the Treaty of 1820) and the Political Agent, *the whole of which was submitted‡ to Government by the Memorialist himself, and instructions solicited and obtained§ thereon*. Surely the Residency have much reason to complain that the Government of the present day should assert that the measure *was not reported* to the Government of the time being, and from thence to argue that the Resident is as much to blame, and equally as liable to pay interest, as Colonel Ballantine, who entirely of his own authority adopted it.

11th. The whole of the 16th paragraph of the Government decision is otherwise unwarrantable. It takes for granted, without reason, that Colonel Ballantine was called upon to pay interest which he did not collect on the Guicawar's Tribute and revenue, which he failed to pay when due. This

* Viz. Rupees 625. 2. 79, and Rupees 627. 0. 50.

† Viz. in his Letter of the 10th August, 1834. Appendix B.

‡ Vide his Letter to Government, dated 11th March, 1824.

§ Vide Reply thereto, dated 8th April, 1824.

call was not made ; and what is more, no demand for interest was ever made by the Memorialist* against Colonel Ballantine, because he changed the periods at which the Tribute was originally payable.

12th. In the 17th paragraph, the Acting Resident is blamed for suffering the Mohsullee to remain unaccounted for. He did not do so. It was accounted for ; that is, it was admitted, and it was stated there were accounts : it was in 1827 that it was for the first time denied. On the above ground not only is the Acting Resident blamed, but Colonel Ballantine is most unfairly placed in the position of a man, whose open and avowed transactions are unnoticed for a series of years, and then made matter of complaint.

13th. The reproach cast upon the Memorialist by the Government stating that the culpable and inexcusable negligence of the Resident and himself " has entailed upon Government and the Service " the inconvenience of the late investigation of Charges against Colonel Ballantine, for offences alleged " to have been committed ten years ago," is shewn to be totally unmerited. An anachronism is pointed out, the expression " ten years ago " not being applicable to any one of the Charges against Colonel Ballantine ;—the probable effect of such a remark upon others, who may hereafter be so unfortunate as to be placed in the same situation as the Memorialist, is alluded to ;—and, lastly, it is shewn that, even admitting the blame imputed to the Residency, is to the full extent deserved, no portion of " the "inconvenience" sustained would have arisen, had not Colonel Ballantine shamefully and dishonestly evaded† the requisition of the Memorialist to account for his Mohsullee collections under date the 16th August, 1827.

14th. The above evasion is not even noticed by Government, although at the time it was made, Colonel Ballantine had Rupees 24,000 in his possession unaccounted for ; neither is his omission to enter this sum in two public accounts rendered by him, considered deserving of censure. The Residency is severely censured, simply because *an account was not called for from a subordinate Officer*. An actual embezzlement on the part of that Officer calls for no remark :—he is simply required to refund the money, Government being apparently satisfied with his explanation‡, that he carried it away " *by an unaccountable, though unintentional, mistake.*"

15th. The highly condemnatory fact, that Colonel Ballantine attempted to palm off upon the Commission a Mohsullee account containing 43 erasures, incontestibly proved to have been made to conceal so many references to another account withheld from the Commission, is likewise unnoticed by Government.

16th. Many of the facts and arguments which so strongly militate against the justice of the decision of the Government of 1834 on the 7th, or Seerpao Charge, annulling the decision of the Government of 1830, confirmed by that of the Commission and Mr. Borrodaile, and which prove it to be deficient in the first requisites of a judicial verdict, have been elsewhere stated §. The chief of these are, that it is opposed to the records of the time, many of which bear Colonel Ballantine's signature ; and that the oral declaration of the Guicawar, to which so much weight is given, is not only inconsistent with Colonel Ballantine's Defence, but is rendered utterly worthless, in consequence of its being at variance with the Guicawar's evidence on the same point, *twice previously obtained in writing* ; and because it was obtained from him by Colonel Ballantine during a mission to Baroda, at which he admits he exhibited to the Guicawar's Agents certain documents, which have been pronounced forgeries, but which, if genuine, would place the Guicawar in the position of an avowed enemy of the British Government. To these, facts and arguments are added in the rejected letter of the Memorialist—

* This is clearly shewn in his rejected Letter, Appendix C.

† Viz. in his Letter, dated 27th September, 1827.

‡ Colonel Ballantine's Letter to Government, dated the 7th October, 1829

§ Vide Appendix B.

1st. Government assume, without any evidence whatever, a knowledge on the part of the Resident, a man of honour and unimpeached integrity, which he positively denied in his evidence before the Commission. The Honourable Court, however, will have no difficulty in deciding whether the assumption of Government, or Mr. Williams's explicit denial, is entitled to most weight; because Government has subsequently* admitted that Mr. Williams did not possess the knowledge imputed to him.

2d. With regard to the second reason assigned for Colonel Ballantine's acquittal of the 7th Charge, it may be observed, that if he *gave presents*, he likewise received presents; and that the presumption is, that his receipts exceeded his issues, because it was proved that he received valuable presents from His Highness the Guicawar, and the members of his Government, to whom by the Rules of the Service he could make no return; and because the receipts of other Officers similarly situated, for this reason considerably exceeded their issues.

3d. With respect to the third reason assigned, or that the Resident and the Acting Resident acquiesced in the mode in which Colonel Ballantine appropriated the Seerpao Grant, no remark is requisite; because it has been rendered null and void by the subsequent declaration† of Government, "that it never for one moment supposed that either the Resident or the Memorialist *knew* any thing of the alleged misappropriation of the Seerpao Grant until the circumstance was reported to Government," which must be held as an acquittal to both from all blame.

4th. The fourth and last reason is likewise shewn to be of no avail; because Colonel Ballantine himself proved by his own witnesses, what is entirely disregarded by Government, that he never informed the Tributaries of the concession of the Seerpao Grant; which sufficiently explains why they did not complain of not having received it previously to 1828.

5th. Colonel Ballantine has in his possession the accounts of his Receipts and Issues of Presents;—he is called upon to produce them, and refuses to do so. This strange conduct on the part of a Servant of Government is not only passed over unnoticed; but Government decree, that "up to the date of Colonel Ballantine leaving the Mahee Caunta, the Seerpao Grant shall be deemed to have been duly applied."

6th. At least twelve opinions have been recorded on the 7th Charge‡: of these ten pronounce Colonel Ballantine guilty, and two acquit him. This must be decisive of the point at issue; because it almost exclusively depends on documentary evidence of the purest description, of a date several years antecedent to any Charge being advanced against Colonel Ballantine.

17th. The conviction expressed by Government in the 22d paragraph, that the Guicawar must have felt that the sum of Rupees 38,535 "was a debt due to the Agent," or he would not have paid it, is unfortunately opposed—1st, by the Treaty of 1820 expressly exempting the Guicawar from liability for any such debt;—2d, by the Guicawar's character, which renders it highly improbable that he would voluntarily liquidate a debt with which he had no concern whatever; and—3d, by Colonel Ballantine's

* Vide Letter to the Memorialist, dated the 12th September, 1834.

† Letter from Government, dated 12th September, 1834.

<i>Against.</i>		<i>For.</i>	
‡ Government of 1830	4	Government of 1834	2
Commission.....	3		
Mr. Borrodaile	1		
Mr. Williams	1		
Government of 1834	1		

Defence *, in which he openly avows that the Guicawar was kept in ignorance of the real purpose to which the Grant was to be applied ; or, in fact, that he was cheated out of it under false pretences.

18th. The assertion of Government that it was the duty of the Resident and the Acting Resident to make enquiries, and call for accounts to ascertain how the Grant was disbursed, is groundless. The Grant was solicited and conceded for a particular purpose, in the shape of a fixed disbursement ; and the Resident could have no more right to question the fact of its being disbursed as was prescribed, in the absence of any specific ground for suspicion, than the Sudder Adawlut could have for supposing that a Zillah Judge does not pay to any Purvoo on his establishment the amount which he authorizedly draws on that account.

19th. If the reasoning of Government in the (22d) paragraph of the decision be admitted, no peculator, who is sufficiently cunning to conceal his speculations for a time, can be called to account. Government state that the Resident should have demanded an account in January 1826. The charge of fraud is preferred in September 1828, and Government acknowledge that it was not before known ; but nevertheless argue, that the person who is charged with the fraud, cannot now be called upon to account, although he admits he possesses books which would at once either acquit or prove him guilty.

20th. To such an extent is this doctrine carried, that Colonel Ballantine is not even required to render an account of the Seerpao Grant subsequent to the receipt by him of the arrears of 38,535 Rupees. Even the disbursement of the sum of 7705 Rupees for the last year, charged in his accounts so late as the 16th March, 1828, is taken for granted, notwithstanding the petitions of the Tributaries that they have not received it.

21st. In pronouncing Colonel Ballantine guilty of the 8th Charge, which involves not only disobedience of the orders of Government, but likewise the violation of an oath, Government severely censure the Residency for what, at the most, can only be viewed as an official oversight ; but leave altogether unnoticed the following facts, highly aggravating Colonel Ballantine's conduct connected with this Charge :—

1st. The false description which Colonel Ballantine gave of the system which prevailed in the Mahee Caunta in regard to presents, when replying † to a requisition from the Accountant General, to render an account of presents received by him as Agent.

2d. His subsequently claiming from Government the sum of Rupees 23,109, as a balance due to him on account of presents ; although no such claim is entered in the account he rendered to his successor, or in an amended statement of the same, rendered six months afterwards to the Accountant General.

3d. His forwarding to Government a set of compiled accounts of his Receipts and Issues of

* *Viz.* as follows—“ In short, Gentlemen, the Grant was intended for the public presents of the Agency ; and though the correspondence relative to the Grant, that has been put in, might lead you to suppose that it was only on settling of the Tribute the Chief was entitled to a present, and that this Grant was solely and exclusively to be confined to presents to the Tributaries, it was not in fact so intended. It was desirable, Gentlemen, when the management of the Mahee Caunta was transferred from the Guicawar's hands into our own, and the British Government would not sanction any presents for the Agency, that a sum of money should be obtained from the Guicawar for the purpose ; and as some ground was necessary to be urged to him for the Grant, the policy—the expediency of the measure was recommended to the Guicawar—the tie it would be as it were in binding the faith of the Tributaries to their pecuniary engagements ; and for them the Grant was principally and ostensibly recommended and urged, because the Tribute was of the most importance to the Guicawar ; and for the Tributaries principally and ostensibly the Grant was finally sanctioned by the Guicawar, because the Tributaries were the persons principally interested in the Grant.”

† Vide his Letter, dated 30th September, 1828.

Presents, and afterwards withholding the original accounts from which he stated they were framed.

4th. His substituting for these a falsified and interpolated account, referring to other accounts not produced, and containing fifty erasures, incontestibly proved to have been made to conceal the connection which existed between Colonel Ballantine and the Firm of Soonderjee Sewjee.

5th. His converting to his own use the stock of presents in store at the period of his removal from the Mahee Caunta, entering the same in his accounts at his own valuation.

6th. His not transferring to his successor any record whatever of his Receipts and Issues of Presents, as Agent in the Mahee Caunta.

22d. The Commission are censured by Government for "arresting the Defendant in the midst of the examination of one of his witnesses, &c." In his rejected letter the Memorialist has shewn that, as far as the Defendant was concerned, the examination of the witness alluded to had concluded, after ninety-one questions had been put to him by the Defence. It was his cross-examination by the Prosecutor which was arrested; and any injury which ensued, was therefore on the part of the Prosecution, and not on that of the Defence.

23d. The doubt raised by Government, respecting the purport and meaning of the evidence of the Partners of the Firm of Soonderjee Sewjee, which induced the Commission to close the enquiry, is purely gratuitous. The Commission was composed of Members, but more particularly the President, well acquainted with the dialect in which their evidence was recorded, and consequently were qualified rightly to interpret the idiom in which it was expressed. The Defendant himself raised no such plea; but evaded granting the authority required, by stating that he did not possess that authority.

24th. Eighteen Native witnesses were examined by the Commission on Colonel Ballantine's behalf. With one or two exceptions, all of these were proved false, either from their denial of some one or more positively proved facts, by their contradicting each other, and by their testimony being contrary to Colonel Ballantine's accounts and Defence; or by an *alibi* being established against them, from documents under their own signature. Nanjee and Govindjee are instances of the first class, both having denied the otherwise proved fact, that the former was the managing Agent of Soonderjee Sewjee's Branch Bank at Sadra, as well as Colonel Ballantine's head Native Assistant.—All the witnesses on the Seerpao Charge, except one, are examples of the second class; and Govindjee and a witness named Heerachund* are instances of the third class. The Commission on these grounds declared Colonel Ballantine's witnesses to be, generally, undeserving of credit. The Government of 1834, totally overlooking the grounds on which this opinion is founded, declare that "it sees no reason for supposing that the Native evidences on the part of the Defence are not just as much entitled to credit as those brought forward by the Prosecutor: on the contrary, considering the respective situations of the two—the one in power, and the other a man on his trial"—Government is disposed to place more confidence in the evidence of a Native in Colonel Ballantine's favour than against him.—The above are stubborn facts; and it is for the Honourable Court to determine whether the Commission's opinion, so supported, can be affected by reasoning like that employed by Government; and whether it is not extremely unjust towards the Memorialist, that the evidence which he produced, accepted by the Commission as free from blemish, should be so contrasted.

25th. The fact that Nanjee, the head Native Assistant, and the greater part of the establishment of Carcoons and Writers of the Agency, withdrew from the service of the Honourable Company when

* Vide Appendix J. The evidence in Govindjee's case was produced in Court, but was not recorded.

Colonel Ballantine was removed, is unnoticed by Government, although it is strongly corroborative of the corruption which prevailed in the Mahee Caunta under his administration.

26th. The condemnatory fact, that Colonel Ballantine was accustomed, during a period of several years, to advance loans, at a usurious rate of interest, to the Chiefs and Villages under his controul; and that when he left Gujerat, he deducted upwards of 7000 Rupees from the public money in his charge, on account of interest due upon some of these loans, falsely entering the amount in his accounts, as a recoverable balance of revenue, are not even noticed, and much less censured by Government.

27th. In referring to the Guicawar in a general way, both by letter, and by deputing Colonel Ballantine to Baroda to settle his accounts with His Highness, the question of the amount which Colonel Ballantine owed the Guicawar, inasmuch as that amount consisted, as was well known to Government, of items—the leading ones being Mohsullee, Rupees 24,727, and Interest, Rupees 16,529—with which His Highness was totally unacquainted, no account of them having been rendered to His Highness.

28th. In soliciting from His Highness no less than three times, the answers of the two first references being unfavourable to Colonel Ballantine, an explanation of his intention in making the Seerpao Grant, when that intention was perfectly clear from the records, at the time the Grant was made, of the Guicawar, the Resident, and Colonel Ballantine.

29th. In dispatching Colonel Ballantine to Baroda at the time of the last solicitation, and in receiving His Highness's verbal declaration as paramount to evidence of the most conclusive description; such verbal declaration, besides its inherent worthlessness, according to the ordinary rules of evidence, being also opposed to Colonel Ballantine's Defence*, and such as would be suggested to His Highness by his pecuniary interests, which the Guicawar is not of a character to undervalue.

30th. In the manner in which the question of Colonel Ballantine's accounts was referred to Mr. Borrodaile, the terms used being such as were calculated to make that Gentleman suppose that he was required merely to examine arithmetically the defective, fabricated, and falsified accounts which Colonel Ballantine had produced, and to submit to Government the true arithmetical result of such examination, without giving an opinion of the validity and reasonableness of any of the items, or the authenticity and credibility of the accounts, although, after a careful and patient investigation, they had been rejected as false by the Ahmedabad Commission.

31st. In keeping the *ex-parte* enquiries at Baroda and Colonel Ballantine's mission secret from the Memorialist, and in not paying to the strong reasons which he adduced against these proceedings when they came to his knowledge, and of the reference to Mr. Borrodaile, that attention which common justice demanded, but, on the contrary, receiving them with marked dissatisfaction.

32d. In allowing Colonel Ballantine to produce accounts, stated to be copied accounts, and to have his Case decided upon them; he having, as stated by him in October 1829, original accounts which he withholds.

33d. In omitting, in the decision on the 4th Charge, that condemnatory notice of Colonel Ballantine's accounts which their nature demanded, more especially in the following instances:—

1st. Failing to notice that, in his accounts dated in March and September 1828, he claimed Rupees 1603, as a balance due to him from Government; but in October 1829, when he was aware that he was charged with peculations, Rupees 52,338.

* Vide Article 17.

2d. Failing to notice the fraudulent debit against Government of more than 7000 Rupees, as an outstanding balance of Revenue, when, in fact, this sum consisted of interest due on various loans which, in contravention of Acts of Parliament and his official oath, he had advanced to Chiefs under his controul.

3d. Failing to notice that in like manner he debited Government with between 7 and 8000 Rupees, as an outstanding balance of Revenue, proved by his accounts to have been *realized and paid* to the Guicawar.

4th. Failing to notice that a sum of money debited against Government, as an advance made to a Chief of the name of Dhereejee, for the subsistence of himself and family, could not have been so advanced, he being, during a considerable part of the time embraced in the account of the transaction, a State Prisoner at Baroda, entirely removed from Colonel Ballantine's controul.

34th. In not noticing the condemnatory fact, that in October 1829, Colonel Ballantine twice admitted that he carried away with him by mistake an English Mohsullee account; but that when called upon by the Commission to produce this account, he retracted these admissions.

35th. In exempting Colonel Ballantine from liability to pay the amount which he admitted to have been levied from the Sadra Bazar, although he failed to shew that it had been disbursed by him on any public object.

36th. In acquitting Colonel Ballantine, contrary to his own admissions, to fact, and evidence, and to the deliberate opinions of the Government of 1830, the Commission, and Mr. Borrodaile, of the 7th Charge.

37th. In drawing an inference to Colonel Ballantine's advantage, totally unwarranted by the fact, and contrary to the Resident's evidence, from his having authorized the payment to Colonel Ballantine of Rupees 38,535, on account of arrears of Seerpao for five years.

38th. In making it an argument in favour of Colonel Ballantine, that the Tributaries did not complain before 1828, Colonel Ballantine having himself proved that they were never informed of the Grant having been made in their favour; so that not only was previous complaint impossible, but Colonel Ballantine committed a gross breach of duty in rendering it so; which misconduct has been totally unnoticed, and the consequent silence of the Tributaries converted into an argument in the delinquent's favour.

39th. In stating, in the decision of the 8th of March, 1834, that if the Seerpao Grant was not paid as it ought to have been, Mr. Williams and Mr. Willoughby are to blame as well as Colonel Ballantine, when the records shew that he drew the amount (as authorized) to pay to the Tributaries; and Mr. Williams and Mr. Willoughby could not have been justified, without the strongest ground, in suspecting that this was not done; the Government, moreover, having subsequently declared * "that it never for one moment supposed that either the Resident or the Memorialist knew any thing of the alleged misappropriation of the Seerpao Grant until the circumstance was reported to Government."

* Vide Letter to the Memorialist, dated 12th September, 1834.

40th. In arguing, and assuming, contrary to the fact, that the amount of the Seerpao was paid by Colonel Ballantine, when Colonel Ballantine's copied accounts (the originals being withheld) shew that the Tributaries, for whom he claimed it, did not receive any thing like the amount received by Colonel Ballantine.

41st. In viewing Colonel Ballantine's failure to produce his present accounts simply as an act of omission, which he was willing to rectify, when Colonel Ballantine, though he had the accounts in October 1829, has to this day withheld them.

42d. In failing to notice the evasions made, and the legal obstructions raised, by Colonel Ballantine at Ahmedabad, to a full and complete investigation of his Case.

43d. In declining to entertain a charge of embezzlement preferred by Mr. Willoughby on the part of the Rajah of Edur, supported *primâ facie* by reasonable evidence.

44th. In not requiring Colonel Ballantine to explain and prove how certain treasonable documents exhibited by him to His Highness the Guicawar's Agents at Baroda, came into his possession; although they are stated to be forgeries, produced to intimidate, but if genuine, would convict Colonel Ballantine of misprision of treason.

45th. In refusing to furnish Mr. Willoughby with copies of sundry accusations brought against him by Colonel Ballantine, and placed without notice on the records of Government.

46th. In visiting, with very trifling dissatisfaction, the publication and circulation by Colonel Ballantine of a slanderous attack on Mr. Willoughby, one copy of which was actually received by the Honourable Mr. Sutherland.

47th. In censuring Mr. Willoughby for measures adopted by him in self-justification, and in depriving him of the use of the only materials by which he could vindicate himself.

48th. In very unfairly censuring Mr. Williams and Mr. Willoughby for negligence and remissness in the superintendence they exercised over the Political Agent in the Mahee Caunta, Colonel Ballantine's delinquencies not having been such as could be guarded against by superintendence at a distance, nor such as any person would have a right to presuppose to exist, without special and strong ground; and in failing to withdraw that censure, after its injustice had been established in a way that must satisfy any unprejudiced mind; the effect, if not the object, of such unjust censure being most unfairly to diminish the culpability and responsibility of Colonel Ballantine.

J. P. WILLOUGHBY, *Bombay Civil Service.*

BOMBAY, 11th February, 1835.

Appendix E.

To Charles Norris, Esquire, Chief Secretary to Government, Bombay.

SIR,

I consider it my duty to report, for the information of the Right Honourable the Governor in Council, that I have learned on good authority that Colonel Ballantine is now, and has been for some time past, residing at Baroda, and is endeavouring to negotiate with His Highness the Guicawar a release from all pecuniary responsibility to that Prince, connected with the situation he held on the part of the British Government, of Political Agent in the Mahee Caunta. I beg further to report that I am likewise informed that it is very probable that Colonel Ballantine will succeed in persuading His Highness the Guicawar to grant him a *Ruzecnameh* or *Farkhuttee*, or an acquittance for all demands. This will not, however, I presume, include His Highness's claim on account of Mohsullee, (amounting at the least to Rupees 24,727 . 1 . 88), or that on account of interest collected from Ahmed-nuggur, and paid in Cash (*viz.* Rupees 16,529 . 0 . 50) to Colonel Ballantine by Mr. Hornby, since the collection of these sums has never, to the best of my knowledge, been reported to the Guicawar Government.

2. The above information naturally leads me to infer that some proceedings connected with the public Prosecution instituted by Government against Colonel Ballantine, have occurred, of which I am as yet uninformed; and I therefore humbly submit, for the consideration of his Lordship in Council, that, as the person compelled to conduct that Prosecution, any proceedings connected with my Charges against Colonel Ballantine should, in due regard to the interests of Government, and the cause of justice, be communicated to me.

3. I beg on this occasion respectfully to refer the Right Honourable the Governor in Council to my letter and enclosures, dated the 20th of November, 1831, in support of the opinion I entertain, that Colonel Ballantine may possibly obtain from His Highness the Guicawar a *Farkhuttee*, or release, without having rendered full and complete satisfaction of all the just demands of that Prince against him; and further to remark, that the additional Charge I therein proposed to prefer against Colonel Ballantine, for investigation by the Commission at Ahmedabad, though refused by Government, was incidentally most substantially proved, in the course of that enquiry, by the evidence of Mr. Williams on the part of the Prosecution, corroborated by that of Captain Shaw, an evidence on behalf of the Defence.

4. I annex an extract from the evidence of these Gentlemen, bearing upon this point; and have only to remark, that the fact of evil reports having existed to the prejudice of Colonel Ballantine, was brought forward by that Officer himself in his examination of Captain Shaw, whilst the fact of those reports having been communicated to him officially, and having been allowed to pass unnoticed, was elicited by the Prosecution, in consequence of the calumnious imputations and invectives against the Prosecutor, contained in Colonel Ballantine's Defence, and in his publication sent into circulation, as far as I have been able to ascertain, about six weeks or two months previous to the opening of the Commission at Ahmedabad.

I have the honour to be, &c.

(Signed) J. P. WILLOUGHBY.

RAJCOTE, 10th July, 1833.

Extract from the Evidence of Captain D. Shaw, of the 20th Regiment N. I., a Witness on behalf of Colonel Ballantine, recorded on the Proceedings of the Commission, the 1st of March, 1832.

8. Do you recollect in 1827, or at any period about that year, being at any party or assembly at which Dr. Kennedy and Mr. Willoughby were present, when my conduct was made the subject of conversation, in which those two individuals, or either of them, joined?

To the best of my recollection, I never heard Mr. Willoughby speak any thing regarding Colonel Ballantine's conduct in any way; but Dr. Kennedy, at a public table at the Residency, was speaking very disrespectfully of Colonel Ballantine, and I warned him that Colonel Ballantine was my friend, and that I should acquaint him.

9. What were the words used by Dr. Kennedy?

That Colonel Ballantine was an old rogue; but the exact words will be found in a letter I wrote to that Officer on the subject.

10. Was there any thing said more immediately relating to any Charges against Colonel Ballantine?

I never heard any thing about Charges at that time.

A paper is produced by the Defence, stated to be a copy of the letter written by Captain Shaw, and the Defence propose that the witness should be allowed to read it, in order to refresh his memory. The Prosecutor observes that it is highly desirable that the original should be put in; but that it is impossible he can consent to an unauthenticated document being put into the hands of a witness, to refresh his memory on a point under investigation. Either party might as well propose to put a memorandum of any kind into the hands of a witness; and the production of a copy, when the original is allowed to be in existence, casts an air of suspicion on the proceeding too obvious to escape notice. The Defence evade the request of the Prosecution for the production of the original, and the examination of Captain Shaw is resumed.

11. Did any public papers or correspondence pass round the Resident's table relative to my conduct about this time?

They may have done so, but I do not recollect ever hearing it mentioned, and I never saw any.

12. Did you ever hear any expression used about my ruin, or my removal from my situation?

Yes, I heard it from several people in Camp. It was generally spoken of, but I never heard it at the Resident's table. On one occasion Dr. Kennedy said at his own door—"Your friend, Colonel Ballantine, is certainly a ruined man." And Dr. Gray once, on my receiving a letter from Colonel Ballantine, also said—"Do not associate with that man; he is a very bad character," and said Dr. Kennedy was his authority.

13. What was the report you heard in Camp?

That there was a something against Colonel Ballantine, but the particulars were not known. Some people talked of his having made away with presents, and did not account for them. I also heard there was a great deficiency in his money accounts.

14. From your situation at the Residency, from whence do you believe those reports originated?

The whole of the above questions are remarked upon by the Commission as irrelevant:—a discussion arises, and the Prosecutor voluntarily retires, to give the Defence an opportunity of explaining with greater freedom their relevancy. On his readmission, he is informed Question 14 is withdrawn, and thereon he intimates that it is not his intention to cross-examine on the preceding questions, unless the original letter from Captain Shaw to Colonel Ballantine, alluded to in Answer 9, is put in.

Interrogatory on the part of the Prosecution, and Reply thereto from James Williams, Esquire, Political Commissioner for Gujerat, recorded on the Commission's Proceedings, the 10th of February, 1832.

24. You have stated that in 1828 Colonel Ballantine and myself were on bad terms:—were we ever on terms of intimacy and friendship? If so, when and from what cause did intercourse between us cease? Did it arise from any personal quarrel or collision that arose between us? State generally the circumstances which, to the best of your knowledge, occasioned a breach between us.

You were up to the end of 1825, I believe, on terms of friendship. In the beginning of 1826, about March, when Colonel Ballantine was at Baroda, on your return from the Districts, you mentioned to me various reports regarding himself and establishment which were prevalent, and very prejudicial to his character. These were further corroborated by the late Colonel Wilson, and were the talk of the Camp. I communicated them to Colonel Ballantine. He soon afterwards quitted Baroda; and from no notice being taken of them, or any steps to trace them, in order to disprove them, your intimacy ceased. You had no personal quarrel or collision to my knowledge or belief.

(True Extracts)

J. P. WILLOUGHBY, *Bombay Civil Service.*

No. 1212.

BOMBAY CASTLE, 9th August, 1833.

POLITICAL DEPARTMENT.

SIR,

1. I am directed by the Right Honourable the Governor in Council to acknowledge the receipt of your letter, dated the 10th ultimo, stating that you have heard that Colonel Ballantine is residing at Baroda, and endeavouring to negotiate with His Highness the Guicawar a release from all pecuniary responsibility to that Prince, connected with the situation he held on the part of the British Government, of Political Agent in the Mahee Caunta; and requesting to be furnished with copies of any proceedings, as yet not communicated to you, which may have passed, connected with your Charges against Colonel Ballantine.

2. In reply, I am directed by his Lordship in Council to inform you, that Mr. Borrodaile's Report will be awaited. On that Report being received, Government will decide whether any and what communication shall be made to the Guicawar of monies which appear due to His Highness.

I have the honour to be, &c.

(Signed)

C. NORRIS, *Chief Secretary*.

To J. P. Willoughby, Esquire.

(True Copy)

J. P. WILLOUGHBY, B. C. S.

Appendix F.

To Charles Norris, Esquire, Chief Secretary to Government, Bombay.

SIR,

1. In reference to my letter of the 17th instant, I have the honour to transmit, for the consideration and instructions of the Right Honourable the Governor in Council, a further Charge against Colonel F. D. Ballantine, which, if approved by Government, I am prepared to substantiate by the most convincing proofs before the Commission ordered to assemble at Ahmedabad.

2. To enable Government the better to decide on the propriety of this Charge becoming the subject of enquiry, I propose—1st, to give a brief outline of the circumstances in which it originates; 2d, to state the nature of the proof in support of it; and, 3d, to assign reasons for my belief that the ends of justice may require it to be brought forward.

3. At the commencement of 1826 Colonel Ballantine visited and remained at Baroda, without any ostensible purpose that I am aware of, during a period of several months. At this time the septennial settlements were commencing, and the Resident discovered that an intrigue had been formed in the Political Agent's Camp to thwart his measures; and that a clandestine and unauthorized intercourse was carried on with the Guicawar, principally through the medium of his Native Agent, Nanjee, a person intimately connected with the family of Soonderjee Sewjee, who are known to have been concerned in the Baroda intrigues. Simultaneous with this discovery, reports highly prejudicial to Colonel Ballantine's character became prevalent. He was said to have received large sums of money from the Guicawar; his son by a native woman was reported to receive a large sum annually from the same quarter; whilst both were known to have received openly from different persons at Baroda presents of value, without any account being rendered of them to Government. In March 1826 I returned to Baroda from Scindiah's Districts in Gujerat, in which I had been recently appointed Political Agent; and the reports alluded to reaching my ears from several quarters, I considered my duty to Government required I should communicate their existence to my official superior, Mr. Williams. On the 18th of March I made this communication; and, informing Mr. Williams I did so officially in the capacity of his Assistant, I explained to him that I was not prepared to prove any thing beyond the fact that such reports existed; one of which was, that a cart laden with treasure had been sent to the House of Soonderjee by the Guicawar on the Political Agent's account, and that the circumstance had transpired in consequence of the cart breaking down in a public thoroughfare. I at the same time intimated to the Resident that the chief object of my communication was to enable him

to afford Colonel Ballantine the opportunity of instituting an enquiry, and refuting the reports if, as I hoped, they were slanderous and calumnious. The information I had thus furnished being confirmed to Mr. Williams by that highly respectable Officer, the late Colonel Wilson, then in command of the Baroda Subsidiary Force, and other circumstances that are not requisite to be particularized, the Resident of Baroda took an early opportunity of apprizing Colonel Ballantine of the currency of the reports adverted to. The communication was received with apparent apathy, and was met by a proposal of a most delicate and unexpected nature, the only object of which could have been to crush enquiry, by the formation of a connection which would in a great degree have created a common bond of union between Mr. Williams and the party whose character was so deeply affected. Beyond a general denial of the truth of the accusations implied in the reports, and a promise, still unfulfilled, of instituting enquiry, and making a satisfactory explanation, Colonel Ballantine took no notice whatever of Mr. Williams's communication; but a very few days after it was made, left Baroda for the Mahee Caunta.

4. I could not at this late period attempt to prove any thing beyond the fact of the communication of reports to the above effect having been formally made to Colonel Ballantine by his official superior; thence deducing the legitimate conclusion, that his silence proves they were not without foundation, since it must occur to every one, that a pure and honest man would have gladly availed himself of the opportunity of wiping away the foul aspersions cast on his character, if the reports had been altogether calumnious. Independent of Mr. Williams's evidence, I have fortunately preserved two notes I received from that Gentleman in allusion to my communication, which, moreover, is expressly and directly adverted to in a Dispatch I had occasion to address to Government as far back as the 30th of August, 1827. For the convenience of reference, I annex extract of the letter I refer to, as well as of one from the Resident to Government which drew the remarks from me; and which will satisfy Government that we both at that period courted enquiry, if it had pleased our superiors to order one. I also enclose extract from the Chief Secretary's reply to the Resident's letter, dated the 17th of June, 1827.

5. My reasons for believing the Charge is required at the present moment, are founded in the opinion entertained both by Mr. Williams and myself, that Colonel Ballantine and his corrupt Establishment were in league with the Guicawar throughout the discussions that have terminated so fatally to the harmony and good feeling that previously subsisted between the allied Governments, and the consequent probability that the Baroda Durbar will be disposed to aid him by undue means in extricating himself from his present difficulty:—I should therefore conceive it desirable that I should be permitted to substantiate the enclosed Charge, in order to prove to the Commission the necessity of examining well any evidence he may produce from a quarter from whence he tacitly admitted he had been largely bribed.

6. With these remarks I leave the point to be decided by the wisdom and judgment of my superiors, and beg that, in case the Charge is considered admissible and proper, I may be furnished with authenticated copies, or the original dispatches, from which extracts are now enclosed.

I have the honour to be, &c.

(Signed) J. P. WILLOUGHBY.

20th November, 1831.

“ Colonel F. D. Ballantine, late Political Agent in the late Mahee Caunta Agency, is charged with dereliction of duty, and with acting in a manner highly unbecoming a public Officer filling a high and responsible situation, in the following instance :—

“ For permitting to pass, uncontradicted and unnoticed, reports current in the Town and Cantonnments of Baroda in March 1826, to the effect that himself, and son by a native woman, had received presents and bribes to a considerable amount from His Highness the Guicawar, although the existence of these disgraceful reports was explicitly and formally communicated to him by his official superior, James Williams, Esquire, then Resident at Baroda, with the avowed object of affording him the opportunity of adopting measures to contradict and disprove them.

(Signed) “ J. P. WILLOUGHBY, *Prosecutor.*”

Extract of a Letter from J. P. Willoughby, Esquire, Acting Resident at Baroda, to the Chief Secretary to Government, dated the 30th August, 1827.

“ In reference to the remarks respecting the family of the late Soonderjee Sewjee, I beg to observe, that their concern in the intrigue, particularly during the time the economical reforms were in progress, is, to the best of my knowledge and belief, unquestionable. I must, however, refer the Honourable Board to the Resident for particular information respecting the extent and nature of the participation of Dewsee Soonderjee, and Hunsraj, and Nanjee in the conspiracy against him and the Minister, since I was, for the most part, absent from Baroda, on the duties of the Punchmahal Agency, during the time when the transactions adverted to in Mr. Williams's dispatch to Government of the 15th of June last, and so disgraceful to all parties implicated in them, took place. I am, however, in perfect recollection of having heard the reports alluded to during a short visit to Baroda, and having felt it my duty to communicate them to Mr. Williams, who afterwards told me that he had very particularly repeated what he had learned from various quarters, to the Officer* most especially concerned ; and as that Gentleman took no steps to exculpate himself, or prove the falsehood of the reports in circulation, it cannot be supposed that they were entirely without foundation, since, with every allowance for exaggeration, they were too discreditable for any person to submit to, whose conduct had been perfectly unexceptionable ;—a remark which I would not have intruded upon Government, but for the circumstance of my name being so particularly mentioned by the Resident, as fully acquainted with that stage of the proceeding.”

Extract of a Letter from James Williams, Esquire, Resident at Baroda, to the Chief Secretary to Government, dated the 15th June, 1827.

“ The concluding part of the Petition refers to the Resident, who is stated to have been assisted by the Dewanjee in paying his debts, and in discharging a demand of the House of Soonderjee, which had been pressed upon him. This is false: in no possible way have I derived any aid from that Minister, neither have I any concern with any Bankers connected with the Baroda Government. A reference can be made to the Acting Resident on this point. With respect to Soonderjee's House, an explanation is necessary. At the period alluded to, I had received intimation of an intrigue carrying on by Rama Wagh Khidmutgar, at His Highness's desire, with Hunsraj, the nephew of

* Lieutenant Colonel Ballantine.

Soonderjee, and Nanjee, Native Agent of Colonel Ballantine, who was then encamped near the Residency; thinking that these people had sufficient influence with Colonel Ballantine, and that Officer with me, to induce me to forego pressing His Highness for a reform of existing abuses, and to relinquish the demand for the money he had appropriated, being applied to the payment of his debts. At that time representations were to have been made to Bombay :—Rama Wagh was the channel of communication, under pretence of bringing fruit and congratulatory messages to the Political Agent. On ascertaining this, I immediately closed accounts with the House of Soonderjee Sewjee, contrary to their earnest entreaties, backed by those of other European and Native friends, arguing that my conduct would affect their reputation. I did not disclose my reasons at that time, but merely observed it was not my wish. I afterwards visited His Highness, and informed him of all I had discovered, and communicated the whole to Colonel Ballantine, mentioning all the reports current in Camp and Town regarding the share himself and son were said to have in this improper proceeding, and requested and desired an immediate enquiry might be instituted by him into the circumstances; but receiving nothing satisfactory from that Gentleman, I suggested the expediency of his quitting Baroda with those people, and refused to see Hunsraj. Mr. Willoughby and Doctor Kennedy are well acquainted with the whole story. I did not report the circumstance, conceiving that the intrigue was quashed, not wishing unnecessarily to annoy His Highness, and being unwilling to expose the family of Soonderjee."

*Extract of a Letter from the Chief Secretary to Government to James Williams, Esquire,
Resident of Baroda, dated 17th June, 1827.*

"The Governor in Council never gave a moment's credit to the allegation against you; but that, as it was advanced with so much effrontery, he deemed it proper to give you the means of contradicting it."

(True Extracts)

(Signed) J. P. WILLOUGHBY, *Political Agent.*

No. 76.

BOMBAY CASTLE, 16th January, 1832.

POLITICAL DEPARTMENT.

SIR,

I am directed by the Right Honourable the Governor in Council to acknowledge the receipt of your letter, dated the 20th November last, communicating a Charge against Colonel Ballantine, founded on transactions which took place about six years ago; and to signify to you that his Lordship in Council does not deem it necessary to entertain that accusation.

I have the honour to be, &c.

(Signed) C. NORRIS, *Chief Secretary.*

To J. P. Willoughby, Esquire, Ahmedabad.

(True Copies)

J. P. WILLOUGHBY, *Bombay Civil Service.*

Appendix G.

No. 1038.

BOMBAY CASTLE, 5th July, 1883.

POLITICAL DEPARTMENT.

SIR,

With reference to my letter of the 8th ultimo, I am directed by the Right Honourable the Governor in Council to transmit for your information the accompanying Copy of a Letter from Colonel Ballantine, dated 16th ultimo, and of my Reply thereto of this date, relative to his accounts.

I have the honour to be, &c.

(Signed)

CHARLES NORRIS, *Chief Secretary.**To J. P. Willoughby, Esquire, &c. &c.*

1.

To Charles Norris, Esquire, Chief Secretary to Government.

SIR,

I have the honour to acknowledge the receipt of your letter of the 8th instant, signifying to me that his Lordship in Council has resolved to submit to Mr. Borrodaile the question, as one of account, of the sum which I should be called upon to pay, and enclosing for my information Copy of the Instructions issued to that Gentleman.

In reply, I beg to remind his Lordship in Council of your letter, dated 18th April last, addressed to me at Ahmedabad, informing me that the Right Honourable the Governor in Council had directed you to instruct me to proceed as soon as possible to Baroda, and, with the assistance of Lieutenant Colonel Burford, to settle, if possible, my accounts with His Highness the Guicawar.

In obedience to these instructions, I proceeded to Baroda, and, with the assistance of Lieutenant Colonel Burford, did effect a settlement of my accounts with the Guicawar; and obtained from that Prince an acquittance and discharge, which I have every reason to suppose was intended by the Guicawar as a complete general release and receipt in full of all claims and demands whatsoever against me.

If, however, that acquittance, as reported by Lieutenant Colonel Burford, is not considered by Government as sufficient, I shall be happy to appear again before His Highness, and obtain a more particular and explicit acknowledgment and declaration from him of his intention regarding such acquittance; and, if it is thought necessary, point out to him the specific objections that have been taken to my accounts under Mr. Willoughby's Charges.

R

But, after having already effected one settlement of my accounts with His Highness in person, Government itself having pointed out to me, expressly directed, and ordered *this* mode of settlement, I now object to any other mode ; and, without meaning any disrespect to Government, I solemnly protest against any further examination of my accounts taking place, either before Mr. Borrodaile or before any other person whatever, except the Guicawar himself.

I have the honour to be, &c.

(Signed) F. D. BALLANTINE

BARODA, 16th June, 1833.

2.

No. 1837.

To Colonel F. D. Ballantine, Baroda.

SIR,

1. I am directed by the Right Honourable the Governor in Council to acknowledge the receipt of your letter, dated the 16th ultimo, protesting against any further examination of your accounts before any person but the Guicawar, and to communicate to you the following observations thereon.

2. The letter of the 18th of April last, alluded to by you, was accompanied by a Copy of the Yad from His Highness the Guicawar, from a perusal of which you must have known that there were other claims against you which remained to be settled :—on these the decision of Government will hereafter be communicated to you.

3. Your assertion that you are accountable to the Guicawar alone cannot, his Lordship in Council directs me to signify to you, be for a moment admitted. His Highness may, if he pleases, give you a receipt for every Rupee which, on an inspection of your account, may appear to be due to him ; but, as a British Officer, you are bound to give a satisfactory account of the mode in which you conducted your business in the Mahee Caunta, to the Government which employed you there in a high political situation ; and the Right Honourable the Governor in Council regrets exceedingly the mistaken view which you appear to take of your responsibility, as the Servant of this Government.

I have &c.

(Signed) C. NORRIS, *Chief Secretary.*

BOMBAY CASTLE, 5th July, 1833.

(True Copies)

(Signed) C. NORRIS, *Chief Secretary.*

To Charles Norris, Esquire, Chief Secretary to Government.

SIR,

1. I have the honour to acknowledge the receipt of your letter, dated the 5th instant, forwarding for my information Copy of a Letter from Colonel Ballantine, stating that, with the aid of Lieutenant Colonel Burford, he had obtained from His Highness the Guicawar an acquittance in full of all claims and demands against him, and solemnly protesting against any further examination of his accounts before Mr. Borrodaile, or any other person whatever except the Guicawar; in other words, denying that he is bound to satisfy his own Government that he has faithfully discharged the trust reposed in him as Political Agent in the Mahee Caunta on the part of the British Government.

2. In the remarks I feel myself called upon to make in reply to your communication, I am sensible that I labour under considerable disadvantage. I have not, as I think I had some right to expect, from the position in which Government thought fit to place me, been furnished with the proceedings which led to Colonel Ballantine's mission to Baroda, which I have only now accidentally learned was undertaken with the authority of the Right Honourable the Governor in Council; and I am consequently uninformed as to what precautions have been adopted to secure, through the intervention of Lieutenant Colonel Burford, a *bonâ fide* honest adjustment of His Highness the Guicawar's demands against the British Government during that Officer's Agency. In my letter of the 10th instant I reported that the fact of Colonel Ballantine being in direct communication with the Guicawar had come to my knowledge; and under an impression that the public prosecution confided by Government to my superintendence might be thereby prejudiced, I requested to be furnished with information upon the subject. I am sanguine that my request, so reasonable in its nature, and so consistent I believe with ordinary usage in such cases, will be complied with; and should I then find any of the conclusions I now submit regarding Colonel Ballantine's mission to Baroda, to be erroneous, I shall be most willing to acknowledge my error.

3. The first remark I would respectfully make is, that the facts brought to the notice of Government in my letter of the 20th of November, 1821, would make me extremely suspicious as to the mode in which the alleged release has been obtained, and naturally cause me to require the most unexceptionable evidence that it has not been obtained by improper means. In the second place, I would observe, that His Highness the Guicawar was, as far as my knowledge extends, ignorant of the actual amount of his demands against the British Government through Colonel Ballantine; and, in the absence of this information, it is difficult to imagine how they could have been satisfactorily adjusted. That Prince is merely aware of how much Tribute he is entitled annually to receive, through the British Government, from the Mahee Caunta; but he cannot know what portion of the amount was collected by Colonel Ballantine, the Agent of the British Government appointed to collect it. For instance, the Guicawar has never been informed that Colonel Ballantine acknowledges in his Report of October 1829, that when he left the Mahee Caunta, by an unaccountable, though, as he states, unintentional mistake, he carried away with him, and did not account for, Rupees 24,727, collected under the head of Mohsulle; the greater part of which had been several years in his possession, and evidently appropriated to his own use. Neither was he informed that Mr. Hornby, in the year 1826, collected and paid to Colonel Ballantine Rupees 16,529 from the Rajah of Ahmednuggur, under the head of Interest. It will therefore have entirely depended upon Colonel Ballantine, whether, in negotiating a release from the Guicawar, he has acknowledged and accounted for the whole or any part of these collections: and I am sure I am fully justified (with reference to the facts recorded on the proceedings of the Ahmedabad Commission) in stating, that I can feel no confidence that they have been fully and honestly satisfied, until I am furnished with something more trustworthy than

the mere assertion of the accounting party that they have been adjusted. Leaving this, however, out of consideration, Colonel Ballantine's Letter to Government of the 16th ultimo contains an indirect admission that he has not had sufficient candour to afford the Guicawar the information requisite to enable him to conclude a just settlement of what is due to him from the British Government; for at the conclusion of the 4th paragraph, when stating his readiness again to appear before His Highness, Colonel Ballantine observes, and "if it is thought necessary, (I will) point out to him (the Guicawar) "the specific objections that have been taken to my accounts under Mr. Willoughby's Charges;" which of course proves that the information which was absolutely requisite to enable His Highness, consistently with his rights, to have passed an acquittance, was not afforded during the recent negotiation between him and Colonel Ballantine.

4. In respect to Lieutenant Colonel Burford's interposition, I must observe, that in my judgment such would rather favour than oppose a settlement of the doubtful character which appears to me to have been effected; and in this remark I hope it will not be supposed I have any intention to reflect on that high and respectable Officer, and beg it may be understood that it is made subject to correction when I am furnished with the instructions issued to him for his guidance. To have enabled Lieutenant Colonel Burford to mediate a just settlement between Colonel Ballantine and the Guicawar, it was obviously required that the former Officer should himself have known what particular points required to be adjusted; whereas I infer that this information was wanting, from having been officially apprized that the only record in which it is to be found complete, has been sent to Mr. Borrodaile at Surat. All, therefore, that Lieutenant Colonel Burford apparently had it in his power to do, in his capacity of Political Agent residing at Baroda, was to apprise His Highness Seeajee Row that Colonel Ballantine's mission was under the authority of Government; and he may have added, that his Lordship in Council was extremely anxious that a settlement of His Highness's demands against the British Government should be effected. I have no hesitation in stating it to be my opinion that a communication of this nature, proceeding from a person so accredited, would, under the peculiar circumstances of this case, have operated as a strong inducement to His Highness to meet the wishes of Government, and, with the view of doing so, to grant a *Farkhuttee*, or release, without a full and complete satisfaction of all his just demands. The case may be somewhat different if Lieutenant Colonel Burford has been instructed to be particular in ascertaining and reporting the mode in which the matters in dispute have been adjusted, and if a precaution, which may very probably have occurred to his Lordship in Council, has been adopted, of making that Officer the medium of payment to the Guicawar of the Mohsullee and Interest above adverted to, and of the other sums that have been proved against Colonel Ballantine before the Commission at Ahmedabad.

5. There are, however, other and still stronger reasons which would lead me to apprehend that the alleged acquittance may have been obtained in a manner inconsistent with the character for integrity and good faith so generally enjoyed by the British Government. It has frequently been recorded that His Highness Seeajee Row is in the habit of making a distinction between his public and private interests; and it is a matter of notoriety, that he is constantly in the habit of granting large remissions to the Collectors of his public Revenue, in consideration of the receipt from them of a *douceur* to be added to his private hoards. If such frequently occurs between Seeajee and his Native Collectors, I see no reason to have prevented its occurrence in the present instance. I shall, however, go farther than this, and state that I can easily imagine (and any one acquainted with the corrupt influences and lax notions which pervade a Mahratta Court will be able to do the same), that, with the aid of the Native Establishment of the late Mahee Caunta Agency, (who, it must be remembered, for the most part, quitted of their own accord their situations on Colonel Ballantine's removal), assisted as I have reason to believe by *Bhats*, whose word would in a great measure influence the decision of a Hindu Prince, by recalling to His Highness's mind former intimacies and recollections, and representing that he

appeared under the authority of Government, who had expressed an anxiety that a settlement should be effected,—and under the idea which His Highness, however erroneously, would very naturally entertain, that, as Colonel Ballantine's mission was countenanced by Government, he had been fully and honourably acquitted by the Commission at Ahmedabad—Colonel Ballantine *may, without much difficulty, have succeeded in prevailing upon that Prince to pass an acquittance without any payment at all:* and in such case it would be for my superiors to consider and determine how far, either in law or in equity, a release so granted to its Agent, can be regarded as a release to the Principal, the British Government, bound to certain obligations by a Treaty with the Guicawar, negotiated by the Honourable M. Elphinstone in April 1821.

6. In conclusion, I trust I shall be pardoned the expression of my deep regret that it did not occur to the Right Honourable the Governor in Council to order Colonel Ballantine to proceed to Baroda, and personally settle his accounts with the Guicawar, previous to the nomination of the special Commission at Ahmedabad, purposely convened to investigate, and decide, and to report their judgment upon what are termed, throughout these discussions, my Charges against Colonel Ballantine. Had this measure been in the first instance adopted, a great public exposure, rendered inevitable both by the sittings of this competent and impartial Tribunal during a period of eight months, and by the line of conduct adopted by Colonel Ballantine, might perhaps have been avoided—a large expence to Government would have been saved—expectations on the part of the Tributaries, which it may be difficult, or at all events expensive, to satisfy, would not have been excited—and, lastly, though it is of minor moment, an odious task would not have been imposed upon an humble though zealous individual like myself, almost too irksome and laborious for any one person to have executed.

I have the honour to be, &c.

(Signed) J. P. WILLOUGHBY.

RAJCOTE, 26th July, 1833.

(True Copies.)

(Signed) J. P. WILLOUGHBY, B. C. S.

Appendix H.

Narrative of Proceedings at Baroda during Colonel Ballantine's Mission to His Highness the Guicawar's Court, undertaken by order of Government, for the Purpose of adjusting the Accounts of the late Mahee Caunta Agency; and of an Attempt made to intimidate His Highness, by exhibiting to his Agents certain Letters, purporting to bear the Guicawar's Seal and Sign Manual, of a most treasonable Nature against the British Government; together with the Result of a Complaint on the Subject made against Colonel Ballantine by His Highness the Guicawar.

1. Colonel Ballantine proceeded to Baroda under the authority of Government, conveyed in a Letter from Mr. Chief Secretary Norris, dated the 18th of April, 1833. The Memorialist, when he accidentally became advised of this mission, protested against it, and warned Government that Colonel Ballantine would in all probability have recourse* to improper means in endeavouring to obtain from

* Vide paragraph 52 and paragraph 63 of the Memorial, and Appendices.

the Guicawar an adjustment of the Mahee Caunta accounts : but no attention was paid to this representation.

2. His Highness the Guicawar now asserts that, when Colonel Ballantine arrived at Baroda, reports were circulated that he was to be appointed Resident ; and, as the Memorialist presumes, with the view of corroborating these reports, Colonel Ballantine having obtained a guard from Camp, took up his abode in the buildings formerly belonging to the Resident, although a commodious private dwelling-house of his own is immediately adjoining thereto.

3. Soon after his arrival, Colonel Ballantine earnestly importuned the Guicawar to grant him a private interview at the *Mustoobagh*, a garden belonging to His Highness, situated in a secluded place in the environs of Baroda. His Highness declined the meeting, and refused to communicate with Colonel Ballantine, except through the customary channel of the Political Commissioner for Gujerat, or Lieutenant Colonel Burford. Upon this Colonel Ballantine caused it to be intimated to the Guicawar that he wished for an interview, to enable him to communicate something of importance to His Highness's interests.

4. Messages to the above effect are stated to have been repeated and importunate, and to have been conveyed to His Highness by an Arab named Abdullah, in the service of Colonel Ballantine, through the intervention of an Arab Jemadar, named Bil-Omur, in the service of the Guicawar, who was formerly employed* in the Mahee Caunta under Colonel Ballantine's orders. In the end, His Highness deputed three persons in his confidence, named Bhow Pooranick, Runchoor Mehta, and Tatoo Pundit, to meet Colonel Ballantine in the *Mustoobagh*, the garden above alluded to.

5. Colonel Ballantine, accompanied by an illegitimate son, proceeded to the *Mustoobagh* ; and on meeting the above persons, the son, in the presence of his father, produced five letters, purporting to bear the Guicawar's Seal and Sign Manual, and to be addressed to Maun Sing Rajah of Joudhpore, a Chief against whom the Supreme Government of India has recently been compelled to direct hostilities ; Runjeet Sing, the Chief of Lahore ; Abbas Meerza, the late heir apparent to the Throne of Persia ; Mahommed Ali, Pasha of Egypt ; and Sumbajee Joshec, Prime Minister of the Chief of Joudhpore.

6. The tenor of all these letters was most treasonable towards the British Government, inveighing against the tyranny of its rule over India, professing to be at war with it, soliciting co-operation, and intimating that the Treaties which formerly existed between the British and Guicawar Governments, had become null and void. The Guicawar's Agents, after inspecting them, immediately declared them to be forgeries, upon which Colonel Ballantine and his son† are stated to have become angry,

* Vide proceedings of Government in the case of Dhareejee in 1827.

† In order to convey to Your Honourable Court an insight into the character of Colonel Ballantine's son, who Colonel Ballantine states obtained the papers which he subsequently forwarded to Government, and to shew that he is a very likely person to have participated in the nefarious transactions above adverted to, the Memorialist may state that he has heard, by common report, that he applied for, and obtained, a patent of Nobility from the King of Delhi ; and that the fact of his obtaining such distinction is rendered the more credible, from a circumstance which came under the observation of the Memorialist during Colonel Ballantine's trial at Ahmedabad. On the 22d September, 1832*, a *Shahsadeh*, or Prince of the House of Delhi, arrived at Ahmedabad, on his way to Surat to be married. None of the Local Authorities went out to meet and do him honour on the part of Government, being strictly prohibited from doing so. Colonel Ballantine's son, however, proceeded in a palankin, of the description used on state occasions by natives of rank, an elephant, a piece of ordnance, and corresponding retinue, to meet the Prince some distance from the City ; and, having fired a salute of eleven guns at the place of meeting, escorted him into the town with all the pomp and ceremony he could muster, because, as the Memorialist supposes, he considered these attentions were called for on his part towards a member of a family, from the head of which he had recently received a title.

* Private Journal, and Letters of the Memorialist, of this date.

and to have observed that several other documents of a similar description were in their possession : after which the meeting broke up.

7. His Highness the Guicawar, having learned from his Agents what had occurred at their interview with Colonel Ballantine and his son, wrote to the Political Commissioner for Gujerat, urging him to repair to Baroda on business of great emergency ; and after an interval of a few days, wrote a second letter to the same effect.

8. The Political Commissioner being at this time engaged in the performance of his judicial duties in Kattywar, was unable to comply with this request ; but suggested that His Highness should communicate the business which pressed, either by letter, or by deputing a confidential Agent.

9. In consequence, His Highness again addressed the Political Commissioner ; and, after expressly referring to his two previous communications, requested that Colonel Ballantine and his son might be directed to quit Baroda, applying to one or both of them the ignominious appellation of "*Fisadee* *." There can be no doubt this application originated in, and alluded to, the meeting at the *Mustoobagh* ; but no enquiry was instituted, Government merely intimating to Colonel Ballantine that his residence at Baroda was not considered advisable, as the Guicawar objected to it.

10. Colonel Ballantine and his son, notwithstanding this intimation, remained at Baroda, or at Omata, in its vicinity, until towards the end of March 1834, when the Political Commissioner being expected, both proceeded to Bombay. On this occasion the Guicawar officially requested Lieutenant Colonel Burford to detain Colonel Ballantine's son until Mr. Williams arrived, as it was His Highness's wish to institute an enquiry respecting the forged papers exhibited to his Agents in the *Mustoobagh*.

11. No notice being taken of this request, when the Political Commissioner reached Baroda, His Highness officially complained against Colonel Ballantine ; and, after recapitulating what had occurred at the interview with his Agents, required that he should be called upon to give up the fabricated papers exhibited on that occasion.

12. This complaint was duly transmitted to Government ; and Colonel Ballantine, being called upon to explain his conduct, furnished the evidence of his guilt by producing and delivering up to Government five letters, with His Highness the Guicawar's seal and signature attached, addressed, in the treasonable language above mentioned, to the Ruler of Joudhpore and the other Potentates already stated.

13. His Highness the Guicawar affirms that these letters are forgeries, got up with the view of intimidating him ; and that a Faqueer of Hindostan, named *Pecala Shah*, who was for several years in his confidence in a medical capacity, was a principal agent in the forgeries.

14. Colonel Ballantine, in his letter to Government, asserted that the letters in question *were given to his son* ; admitted the interview in the *Mustoobagh*, but stated that it originated at the Guicawar's request ; which His Highness most positively denies, asserting, on the contrary, that it took place in consequence of Colonel Ballantine's repeated and earnest solicitation. Colonel Ballantine further stated that he attached† no importance to the documents, and therefore did not communicate them to

* Vide Richardson's Persian Dictionary.

† If this is the case, why were they exhibited to His Highness's Agents ?—and how came Colonel Ballantine and his son to repair to a garden about a mile from where they were residing, with the documents in their pocket, ready to be shewn at the interview ?

his own Government ; but he entered into no explanation *how they originally came into his son's possession* ; and, as far as the Memorialist is informed, Government *did not institute any enquiry into this material question*.

15. There are, however, strong grounds for supposing that the documents were, either directly or indirectly, obtained from *Peeala Shah*, the Faqueer above alluded to:—1st, because, when His Highness the Guicawar complained against Colonel Ballantine for having exhibited them in the *Mustoobagh*, he preferred a similar complaint against *Peeala Shah* for exhibiting fabricated papers at Surat ; 2d, the Public Journals have recently announced that *Peeala Shah* has been apprehended at Poona, and *that he has been delivered up to the Guicawar*, in consequence of treasonable documents, *of exactly similar purport and address to those exhibited in the Mustoobagh* by Colonel Ballantine and his son, having been found on his person.

16. The letters delivered up to Government by Colonel Ballantine were subsequently referred to Mr. Secretary Wathen, who, after comparing them with documents in his office, bearing the genuine seal and signature of His Highness the Guicawar, pronounced them to be forgeries.

17. They have been since sent to Baroda, and, without further enquiry, given up to the Guicawar, with the assurances of Government that it is convinced that *they are forgeries*, and that no further investigation is necessary. His Highness having thus obtained possession of the documents, and the person charged with having forged them, having likewise been given up to him, he is apparently satisfied, and has ceased to follow up his complaint against Colonel Ballantine and his son.

18. The Memorialist believes that a very considerable portion of the facts above recited are to be found upon the public Records of Government ; and that the remainder of the information which he has been able to collect, respecting Colonel Ballantine's proceedings at Baroda, is authentic.

19. He may surely ask, what other person but Colonel Ballantine, when sent on a public mission to Baroda, to negotiate a settlement of pecuniary claims against the British Government, could have hoped with impunity, and without subsequent enquiry, to have importuned the Guicawar to grant him a clandestine meeting, in violation of the well-established rule, that direct intercourse with the Native States of India is prohibited, unless with the permission of Government, and with the knowledge of the Agents accredited to them ?—What servant of Government—nay, what subject of the King of England, could have hoped with impunity *to have retained for several months in his possession papers of the most treasonable nature*, without being called upon to state, and not only to state, but satisfactorily to prove, from whence he obtained them ?—Above all, what other person could have hoped to escape the strictest enquiry, and (if the same were substantiated) the condignest punishment, after the accusation of an Ally of the British Government, that he had privately exhibited to his Agents forged documents, with the object, every reasonable person must conclude, of intimidating that Ally into his views, by exciting his fears, and leading him to believe that his kingdom and all he possessed was at his command ?—aggravated by the fact, that all this occurred during a mission undertaken by order of Government, for the avowed purpose of adjusting certain pecuniary demands in which its own character for integrity and good faith was materially involved.

20. It is not necessary to enquire whether the papers exhibited at the *Mustoobagh*, and produced by Colonel Ballantine on the call of Government, are genuine or forged. In whatever way this (in other respects) important question may be decided, the object of the Memorialist in referring to the transaction will remain unaffected. If they are genuine, Colonel Ballantine is clearly guilty of *misprision of treason* in retaining them in his possession several months without communicating them

to his own Government; his declaration that he attached no importance to them, being contradicted by the fact of his having exhibited them to His Highness's Agents. If, on the contrary, they are forgeries, exhibiting them could have had but one object—to extort an adjustment of his Mahee Caunta accounts, to obtain which he was deputed by Government to Baroda.

21. The Memorialist has not been able to ascertain the date on which the papers were exhibited; but it was during this mission to Baroda that Colonel Ballantine is stated to have obtained from the Guicawar a *verbal declaration* respecting his intentions in making the Seerpao Grant, which is made one of the chief reasons by the Government of 1834 for acquitting him on the 7th Charge, although this declaration is directly opposed to what His Highness had previously *twice stated in writing* to be his intention, to the Records of Government, and to Colonel Ballantine's Defence and admissions. The effect of such acquittal has been to deprive the Mahee Caunta Tributaries of a grant of 61,640 Rupees, originally applied for, and ultimately received by the British Government in their name, and exclusively in their behalf.

22. The public interests clearly demand that their right should not be prejudiced by any thing which may have occurred at a mission during which Colonel Ballantine resorted to measures of intimidation against the Guicawar; that all his proceedings at Baroda should be declared null and void; and that no part of the Charges advanced against him, and investigated at Ahmedabad, according to the strictest rules of law, should be affected by them.

J. P. WILLOUGHBY, B. C. S.

BOMBAY, 11th February, 1835.

Appendix I.

To J. P. Willoughby, Esquire, late Political Agent, Mahee Caunta.

SIR,

1st. We have the honour to hand you Extract of a Letter from Colonel Ballantine to our address, dated the 10th instant.

2d. Also Copy of a Letter addressed to the Secretary with the Right Honourable the Governor of the same date, with the Reply thereto, dated the 12th, communicating the instructions of his Lordship.

3d. Your Reports, alluded to by Colonel Ballantine, of the 20th September and 17th December, 1828, may, we presume, be obtained in original from the Political Commissioner for Gujerat; and should you, after reference to them, decide upon retaining the three Charges objected to, and submitting them to our decision, we shall be enabled to settle this question by reference to these original documents, to which we presume Colonel Ballantine and yourself will not object; and shall feel obliged by your bringing them with you on Monday at eleven o'clock, on which day we shall be prepared to enter formally upon the duties of the Commission.

We have the honour to be, &c.

(Signed) W. J. LUMSDEN, *President.*
J. H. PELLY.
J. RANKIN.

AHMEDABAD, 17th December, 1831.

S

*Extract of a Letter from Colonel F. D. Ballantine to the Address of the Commission,
dated the 10th December, 1831.*

"In further reply, I beg to apprise you that of these Charges, the 1st, 4th, and 8th are fresh and additional Charges, not contained in Mr. Willoughby's two Reports, dated respectively the 20th September and 17th December, 1828, containing his original Charges against me."

"In making this communication, I at the same time beg, Gentlemen, you will distinctly understand, I will shrink from no enquiry whatever that may be directed; but as an enquiry into fresh Charges, other than those long since brought against me, would be contrary to the intention and express orders of Government, and as some limit, I would also submit, ought in fairness to me to be placed on Mr. Willoughby in his Charges against me, I should feel obliged by your informing me of your resolution upon the three additional Charges I have referred to."

(True Extract.)

(Signed) W. J. LUMSDEN, *President.*

To Thomas Williamson, Esquire, Secretary with the Right Honourable the Governor.

SIR,

We have the honour to forward herewith Copy of a Letter dated this day, received from Colonel Ballantine, together with Copy of the Charges preferred against that Officer by Mr. Willoughby, which we request you will lay before the Right Honourable the Governor, and solicit his Lordship's instructions regarding the objections made by Colonel Ballantine.

We have the honour to be, &c.

(Signed) W. J. LUMSDEN, *President.*
J. H. PELLY, *Member.*
J. RANKIN, *Member.*

AHMEDABAD, 10th December, 1831.

No. 74 of 1831.

TO W. J. LUMSDEN, ESQUIRE, J. H. PELLY, ESQUIRE, AND CAPTAIN J. RANKIN,
*President and Members of the Commission for investigating the Charges preferred
against Colonel Ballantine.*

GENTLEMEN,

I am directed by the Right Honourable the Governor to acknowledge the receipt of your letter, dated the 10th instant, with its accompaniments, and to observe that Colonel Ballantine having objected to three out of the eight Charges brought against him by Mr. Willoughby, as being new ones, and not contained in Mr. Willoughby's Reports dated the 20th September and 13th

December, 1828—and it being the intention of Government not to allow additional Charges to be brought against Colonel Ballantine, and to be referred to your Commission, you should call on Mr. Willoughby, on his arrival at Ahmedabad, to shew that the three Charges in question formed part of his original Charges against that Officer in 1828; and if he fails in doing so, his Lordship requests that you will not enquire into them, but confine your enquiries strictly to the original Charges, and on no account allow any extraneous matter to be brought forward on either side.

I have the honour to be, &c.

(Signed) T. WILLIAMSON,

Secretary in attendance on the Right Honourable the Governor.

CAMP AT AHMEDABAD, 12th December, 1831.

(True Copies.)

(Signed) W. J. LUMSDEN, *President.*

TO W. J. LUMSDEN, ESQUIRE, J. H. PELLY, ESQUIRE, AND CAPTAIN J. RANKIN,

President and Members of the Commission for investigating the Charges preferred against Colonel Ballantine.

GENTLEMEN,

1. I have the honour to acknowledge the receipt of your letter and enclosures of yesterday's date, informing me that Colonel Ballantine has objected to the 1st, 4th, and 8th Charges preferred against him, because they were not brought forward in my Reports to Government of the 20th September and 17th December, 1828.

2. I have no objection whatever to offer to the mode proposed by the Commission for determining the admission or rejection of the Charges in question. I presume the original Reports adverted to are among the papers forwarded from Bombay; and in this case I shall, on the opening of the Commission to-morrow morning, request that they may immediately be placed before it, together with the Reports from Colonel Ballantine, in which they originated.

3. The Reports in question will not be found to contain any Charges drawn up in terms adapted for judicial enquiry: I am, however, satisfied that I shall be able to prove to the Commission, that the whole of those forwarded in my letter of the 17th ultimo, are either directly made or implied in the Reports quoted by Colonel Ballantine, and that none of them will be found either new or extraneous.

4. With this conviction I do not feel myself at liberty to withdraw either of the Charges objected to until they have been considered by the Commission, and decided to be inadmissible under the rule prescribed in Mr. Secretary Williamson's letter of the 12th instant.

I have the honour to be, &c.

(Signed) J. P. WILLOUGHBY.

AHMEDABAD, 18th December, 1831.

MR. PRESIDENT,

Your letter of the 17th instant apprized me that Colonel Ballantine has objected to the 1st, 4th, and 8th of the Charges, forwarded in my letter of the 17th ultimo, being submitted to your investigation, on the grounds that they are not to be found in my Reports to Government dated the 20th of September and 17th of December, 1828.

The Letter of Government directing me to appear as Prosecutor before this Commission, contained no instructions as to what Charges I was to adduce before it; and it would certainly have been more agreeable to me had they been framed in Bombay. I presume, however, that the framing of the Charges was intended to be left to my discretion, under the impression that I was the person most competent to decide what were susceptible of proof, and what not. I was certainly unprepared for this attempt, on the part of the Defence, to establish the principle, that a person in Colonel Ballantine's situation is at liberty to prescribe the particular subjects of accusation that should be investigated by a Commission constituted at his own request; and I am unable to reconcile it with the avowal with which it is accompanied, that the objection is not made with the intention of shrinking from enquiry.

The Reports quoted by the Defence do not contain any Charges drawn up in language sufficiently precise to form the subject of judicial enquiry, but merely afford facts and information whereon they may be founded. I am, however, fully prepared to argue that the three Charges objected to are exclusively grounded on those Reports, and that they are neither new nor extraneous. It was my intention to have delayed submitting to the Commission any evidence in support of the Prosecution, until I had laid before it a paper or address, explanatory of the origin and nature of the Charges to be submitted to its judgment; but in consequence of this unexpected objection on the part of the Defence, I am obliged to submit to your consideration the under-mentioned official Records, to enable you to decide whether the Charges objected to are admissible or not.

1st. Letter from the Resident of Baroda, dated 7th April, 1828, with enclosures, included in the List of Documents forwarded from Bombay, to be available both for the Prosecution and the Defence.—No. 1.

2d. Letter from the Accountant General to Government, dated 17th June, 1828, ditto, ditto.—No. 7.

3d. Letter from the Resident at Baroda to Government, dated the 20th December, 1828, forwarding my Report of the 20th September, 1828, ditto, ditto.—No. 9.

4th. On original letter from Mr. Secretary Bax, dated the 7th November, 1828, to the Acting Resident of Baroda, forwarding an amended Statement, furnished by Colonel Ballantine, of the Mahee Caunta Accounts.

5th. An authenticated Copy of my Reply to ditto, with enclosures, dated the 17th December, 1828, obtained from the late Baroda Residency.

The two last documents are not, I believe, included in the List sent from Bombay; but I presume they will not on this account be objected to, particularly as Copy of the last Report has already been furnished and replied to by Colonel Ballantine.

In support of the 1st Charge, I beg to refer to the Note appended to the 7th paragraph of my Report, of the 20th of September, 1828, in which the Circular of August 1824, and the Instructions issued by the Resident of Baroda for its observance are cited, with the remark that, had they been conformed to, I should have been spared the painful duty I was then performing. I also beg to refer the Commission to

the concluding paragraph of the same Report, in which I again repeat the observation, and cite a letter from Mr. Hornby, stating that Colonel Ballantine's departure from Gujerat had prevented him from entering into the adjustment of the accounts of the Office transferred to his charge.

In support of the 4th Charge, I beg to call the attention of the Commission to the 6th and 52d paragraphs of my Report of the 20th September, 1828, apprizing Government of the state in which I found the accounts of the Mahee Caunta Agency, and noticing numerous discrepancies, contradictions, and irregularities discovered in the various statements Colonel Ballantine had rendered. I also beg to refer to the 2d and 8th paragraphs of my Report of the 17th of December, 1828, containing my remarks on the amended statement of his accounts furnished by Colonel Ballantine to the Accountant General of Bombay, which I designated as fallacious, and confirmatory of the painful conviction I felt of the existence somewhere of fraud and deception in those accounts. It is, I conceive, my duty to remark that, if this Charge is rejected, a principal object of this enquiry will be defeated.

In support of the 8th Charge, I beg to refer to the 93d paragraph of my Letter of the 20th September, 1828, and the Note appended, reporting that no account of Colonel Ballantine's Receipts and Issues of Presents was to be found among the Mahee Caunta Records, and asserting that he was bound to produce it by an oath he had taken not to receive Presents, except on the public account. I am the more surprised at the objection taken to this Charge, since you will find that Colonel Ballantine has already replied to it in his Letter to the Accountant General, dated the 30th of September, 1828. I am prepared to shew that his explanation is altogether unsatisfactory; and that he is bound to produce his original accounts of his Receipts and Issues of Presents, or submit to the imputation that they will not bear the test of a public scrutiny.

With these remarks I leave the rejection or admission of these Charges to your decision; though, under any circumstances, it will be my duty to report the objection made to them, and my endeavours to overrule them to Government, under whose authority I am acting.

I have the honour to be, &c.

(Signed) J. P. WILLOUGHBY.

AHMEDABAD, 19th December, 1831.

(True Copies.)

(Signed) J. P. WILLOUGHBY, B. C. S.

N. B. Colonel Ballantine's objections were finally overruled. The Commission found him guilty of all the Charges he objected to. The Government found him guilty of the 4th and 8th, and acquitted him of the 1st Charge.

J. P. WILLOUGHBY.

Appendix J.

Extract from the Proceedings of the Commission on the 9th March, 1832.

HEERACHUND WUSTA is called, and examined by the Defendant as follows:—

1. Does your Village pay Tribute; and have you received Seerpao?

Yes; and I have received Seerpao for six years. There are nine Thacoors in the Saburkanta who have all received six Seerpaos each; this includes my Thacoor. The value of each was about 25 Rupees, including my Thacoor.

2. On what account was it given, and of what did it consist?

On account of paying Tribute, and it consisted of a pugree and shela. When it was given to us, a pearl necklace of the value of 300 Rupees, and a pair of shawls, was given to the Chief of Mohimpoor, and a pair of bangles to the Rajah of Edur—this was in 1879 or 1880; on the same day a shela and pugree was given to the Chiefs of Roopal, Rumaseen, Goorwen, and Dudaleea—this took place at Mohimpoor.—(In all the above cases the witness remembers the value of the present to each Chief.)—A pair of shawls, value 150, and a pugree, 25 Rupees, were also given to the Mohimpoor Chief at Dubora.

3. What character did I bear in the Mahee Caunta?

Before you came, people could not put their finger out of doors, and you made a good settlement. Five or ten armed men were required before you came. The people are, however, now happy.

4. Were you ever in the Camp at Sadra when Dhereejee was there?

I never saw Dhereejee there. I saw the Chief of Wancaneer for two or four days once at Sadra.

5. How did he subsist there?

I do not know how he was supported. I saw him in irons at Sadra. I saw him again in the house of a Brahmacharya at Sadra; at which time people said Colonel Ballantine had given him 2 or 4,000 Rupees for his marriage and subsistence; but I did not witness the advance made. I never spoke to Dhereejee. He was not in irons at this time. I did not hear him speak to other people.

6. Had he any attendants?

He may have had five or seven people with him, but I did not see them.

Cross-examined by the Prosecutor.

1. How long have you been Carbarry to the Chief of Tejpoor?

For twenty years.

2. Were you present yourself when each of the nine Thacoors received a Seerpao for six successive years?

Yes, I was present every year.

3. At what place were they given?

Three or four times at Sadra, once at Edur, and once at Dubora.

4. Have you ever heard that the Sahurkanta Chiefs petitioned regarding Seerpao?

They may have made petitions, on account of some inducement being held out to them that they would receive money.

5. What makes you think so?

Brijlall and Soobhasam at Edur told me that if I petitioned on the subject, I should receive Seerpao.

6. Did you make a petition?

I may have done so, but I cannot positively say.

7. How are you able so particularly to recollect the value of the presents above adverted to?

Four people would meet together, and say that such and such a Thacoor had received so much. The Carbarry of Mohimpoor might say his Chief had got a Seerpao of 500 Rupees.

8. In what year did you see Dhareejee in irons?

I do not recollect.

9. In what year did you see him in the Brahmacharya's house?

I do not recollect.

10. Did you see him first in irons, and afterwards in the Brahmacharya's house, or *vice versa*?

I first saw him in irons, and then in the Brahmacharya's house.

11. Where was the Brahmacharya's house?

At Sadra.

12. At what interval of time did you see him on those two occasions?

A year, or six months.

Question by Commission.

1. Do you know that the Guicawar had granted a statement, fixing an annual amount of Seerpao to each District, Village, or Chief?

I know nothing about a Putruck fixing the amount of Seerpao to be given to each Village or Chief.

To W. J. Lumsden, Esquire, President of the Commission assembled at Ahmedabad.

SIR,

1. I have the honour to request that Heerachund Wusta, one of the witnesses examined on the Defence, on the 9th instant, may be ordered again to appear before your Commission; but with the precaution, that it may not be known that he is summoned at my request. The Defence will, no doubt, be able to state where he resides.

2. The great difficulty which the Prosecution experiences, arises from its ignorance even of the names of the witnesses on the part of the Defence until they appear before your Commission, and consequent want of knowledge of their history and circumstances, without which an efficient cross-examination cannot be conducted.

3. The present is a case in point. I have since ascertained that the witness, Heerachund Wusta, is a discarded Carbarry of the Chief of Tejpoor, and that he left Tejpoor in September 1831, on terms of enmity with his Chief. Further, instead of having been Carbarry for twenty years, he has only held that situation during the last two or three years. I shall be prepared to prove this to-morrow, by documents bearing the signature of the witness himself.

I have the honour to be, &c.

(Signed) J. P. WILLOUGHBY,

AHMEDABAD, 11th March, 1832.

Prosecutor on the part of Government.

Extract from the Proceedings of the Commission on the 15th March, 1832.

HEERACHUND WUSTA is recalled, and examined by the Prosecutor.

1. Have you been Carbarry of the Chief of Tejpoor for twenty years?	Yes, I have been Carbarry of the Chief of Tejpoor for twenty years. My father was Carbarry for ten years, during which I was associated with him; and for the ten last years I have been Carbarry.
---	--

2. Has your master authorized you to state on his behalf, that he has received six Seerpaos from Colonel Ballantine on payment of his Tribute?	I speak by the authority of the Thacoor, not of my own accord.
--	--

3. Were his orders verbal or in writing?	Verbally.
--	-----------

4. When did you receive those orders?	On Marjseer Vud, or Poush Vud, S. 1838.
---------------------------------------	---

5. Are you the Carbarry at the present time?	At present my opponent is Carbarry.
--	-------------------------------------

6. When were you last at Tejpoor.	Four months since.
-----------------------------------	--------------------

7. Whose signature is this—and this—and this—and this—and this?

—(He acknowledges them to be his. They are five petitions from him against his Chief; and prove him to have been a discarded Carbarry, at all events, as far back as the 14th September, 1831; and also that he was only Carbarry the last two years. The first petition is recorded Exhibit 94.)—

8. Where were you when you received the orders?	In Mahdopoor. The Thacoors of eight Villages were present.
---	--

Question by Defence.

On what business did he come here?	To give security.
------------------------------------	-------------------

Extract from the Prosecutor's Reply to the Defence on the 7th Charge.

It is a singular circumstance, that so many persons should have been introduced by the Defence to give false evidence, when Colonel Ballantine has himself furnished an unexceptionable test by which the truth or falsehood of their testimony can be tried. It must be conceded that, though it by no means follows that the whole of the Presents exhibited in Colonel Ballantine's accounts have actually been made, (it being obviously necessary to support them by the vouchers of the merchants from whom they were purchased), still it is to be presumed that none that were made, have been omitted in those accounts. This being admitted, with one exception, the evidence of all the witnesses brought forward by the Defence becomes vitiated; and the Prosecutor is relieved from the necessity of exposing the various contradictions and discrepancies with which their testimony abounds, or of commenting upon the evident preparation with which the greater proportion of them delivered their testimony.

1st. The first witness was Boodhsing, the Chief of Muggoona, who acknowledged that he had recently returned from Bombay, where he had been residing for nearly the last two years. This man stated that he had received from Colonel Ballantine, year by year, for six years, a Seerpao of the value of 70 Rupees, and that four or five of his Carbarries had received a Pugree of the value of 6 or 7 Rupees each. On reference to Colonel Ballantine's accounts, it will be found that this witness's name only appears twice; once as having received a present of the value of Rupees 22 . 1, and on another occasion, one of the value of 50 Rupees. It will be in the recollection of the Commission, that in one of his replies, the witness volunteered the remark, that "if any Chief was guilty of misconduct, he did not receive Seerpao;" and was immediately after obliged to confess, that in one of the years in which he professed to have received Seerpao, his village was attacked, and himself made a prisoner by a British force, in consequence of his having aided the Dudana Coolies, then in rebellion against Government. —The names of Gungajee and the Chief of Tejpoor, and others who, he further stated, he had seen receive six Seerpaos, are not once named in Colonel Ballantine's accounts.

2d. Kooshall Summer Sing, the second witness, deposed that himself, the Chief of Wursora, and his Carbarries had each received five Seerpaos from Colonel Ballantine. This witness's name does not appear once in the accounts; but that of his Chief appears six times, as having received presents, and four as having made presents to the Political Agent. The Carbarries are nowhere mentioned.

3d. Surdar Singjee, the third witness, stated that he had received six Seerpaos from Colonel Ballantine; but his name does not once appear in the accounts. This is one of the witnesses who stated he had been tampered with by the Moojmoomdar.

4th. Purshotum, Carbarry of the Chief of Mansa, acknowledged that he had presented two petitions, falsely representing that his master had not received Seerpao. One of these petitions was produced by the Prosecutor, and the witness was obliged to acknowledge it to be in his hand-writing; but stated that he had been persuaded to present it, though false. Of the mass of petitions that have been received on the subject of the Seerpao Grant, having been withheld under Colonel Ballantine's administration, this is the only instance of retractation. The acknowledgment on the part of the witness, that he was base enough to fabricate two petitions altogether false, is sufficient to destroy his credit; and the Prosecutor does not consider it requisite to make any comment upon the improbable account he has given of the circumstances which induced him to present those petitions. The Defence is entitled to the benefit of the retractation; but as far as the Prosecutor is concerned, the honesty of

his proceedings must be apparent, from the simple fact, that the Chief of Mansa was summoned by the Prosecution in support of petitions which were believed to be authentic and true, and to have been presented by his authority.

5th. Panachund, the Carbarry of the Chief of Omata, stated that his master had received six Seerpaos; and this is the only instance in which the witness's testimony is confirmed by Colonel Ballantine's account: it is also the only instance of an approach to a disbursement of the Seerpao Grant in the mode intended, that has been proved by the Defence. Even here, however, Colonel Ballantine has retained two of the Seerpaos belonging to this Chief, one of which, however, viz. that for Sumvut 1883, was paid to him by the Prosecutor. Vide Exhibit 56.

6th. Doorgajee, of Vusora, deposed that he has received six Seerpaos, year by year, of the value of about 100 Rupees; but his name does not appear once in the accounts.

7th. Punnajee, of Butwa, says he received six Seerpaos, year by year; but his name does not appear in the accounts.

8th. Soostanjee, of Hurruckjee no Mowaro, says he received six or seven Seerpaos, of the value of from 35 to 40 Rupees; but his name does not appear once in the accounts.

9th. Jeewandass, of Dehlole, said he had received six Seerpaos; and his name does not appear once in the accounts.

10th. Boputsing, of Oon, said he had received six Seerpaos; but his name is not included in the accounts.

11th. Keerpuram, Carbarry of the Chief of Mohunpoor, stated that his master, himself, and three other Carbarries have received six Seerpaos. His master's name appears only twice, but neither himself, nor the other Carbarries are any where mentioned in the accounts.

12th. Dwarka Pursaad stated he had seen Seerpaos given to *all the Bhoomcas*, specifying some in particular, whose names do not appear in the accounts. This is the witness who said he could not read or write, and afterwards copied a part of his deposition in a very good hand. He also said he was aware of Dhereejee's intention to go out to plunder the Country; but, nevertheless, that he kept the Political Agent uninformed of his intentions.

13th. Aditram Sarootram merely says he saw presents given on two occasions to some of the Chiefs, whose names he does not recollect.

14th. Heerachund Wusta, who represented himself to have been the Carbarry of the Chief of Tejpoor for 20 years, stated that he had been authorized by his master to represent that himself and the whole of the Chiefs of the Saberkanta have received Seerpaos, year by year, for six years. On reference to Colonel Ballantine's accounts, the Chief of Tejpoor's name does not appear once.

The Commission will not have forgotten that the false character assumed by this witness was fully established by his being compelled, on cross-examination, to acknowledge the authenticity of six petitions bearing his own signature, obtained from the Records of the Political Commissioner for Gujerat, proving beyond doubt that, instead of twenty years, he had only been two years Carbarry to the Chief of Tejpoor, at a period subsequent to Colonel Ballantine's removal from Gujerat; and that in the month of September last he was discarded from his situation, and dismissed by his Chief on terms of the most decided hostility.

In addition to the above witnesses, Subbul Sing, Chief of Mansa, summoned on the part of the Prosecution, in consequence of his Carbarry having, in December 1828, presented a petition, representing that his Seerpao had been withheld, has appeared before the Commission, and falsified that petition, by acknowledging that he has received Seerpao five or six times from Colonel Ballantine, of the value of about 250 Rupees each. This statement is corroborated by the accounts, as far as the number of Seerpaos is concerned; but in regard to their value, the accounts prove them to have been less, by more than a third, than that which the witness states he has received, which, in fact, corresponds with the amount assigned to him in the amended Seerpao List:—on the other hand, it is to be observed, this witness stated that on one occasion he presented a horse to Colonel Ballantine; and the accounts shew that on another occasion he made a present of Cloths, which the witness however most positively denied.

Extract the Second.

In the above List will be found included the arrears of Seerpao, amounting to Rupees 38,525, received by Colonel Ballantine in 1824, as well as the Seerpao of Rupees 7705, for the three succeeding years. At the former no less than three erasures are visible—one on the credit, and two on the debit side of the account—on each of which Govindjee's name is written. The conclusion to be drawn from these erasures is obvious. The entries were originally debited and credited in some other person's name; and here, as in the case of the Mohsullee account, the agent employed to make the erasures, has performed his work negligently, and has left a clue by which the original entry may be ascertained. At page 9 of the Account for Sumvut 1877, the word (*Sewjee*) is distinctly visible under Govindjee's name; and at page 20 of the Account for 1881, at the entry of the Seerpao arrears, the letter *V* is left unerased after the word Ambaram. The Commission will recollect that several persons were summoned from the Adawlut, three of whom declared that Sewjee was legible; and considering the connection which is proved to have existed between the parties, but little doubt can exist that Govindjee, Ambaram's name, has been substituted for that of Soonderjee Sewjee.—The object of this clumsy attempt may also be inferred:—it has been a part of Colonel Ballantine's Defence to deny that he had any public connection whatever with the Firm of Soonderjee Sewjee; and it may not therefore have been deemed advisable that it should appear that the whole of the Seerpao Grant of 61,640 Rupees had been paid on his account to that Firm, more especially as such an admission would have rendered the production of their books necessary. It became requisite, therefore, to find out a remedy; and the one adopted was to induce the poor and needy Govindjee to consent, for a consideration no doubt, that his name should be substituted, and that he himself should appear in person before you, and represent that he had been the superintendent of Colonel Ballantine's Receipts and Issues of Presents during the whole period of that Officer's Agency; and even that the considerable sum of Rupees 38,525 was paid by Nanjee into his hands.

The Commission will recollect that the cross-examination of Govindjee had just commenced, when it was determined that this enquiry should be closed. The Prosecutor exceedingly regretted that he was not permitted to continue the cross-examination of this witness, as he would have been able to have convicted him, out of his own mouth, of having told the grossest falsehoods in his examination in chief, and to have exposed the machinations which the Defence has been obliged to resort to, with the view of extricating itself from the difficulties in which it is surrounded. This witness stated that he was in Colonel Ballantine's service from Sumvut ¹⁸⁷⁶₁₈₁₉₋₂₀, without intermission, up to the period of that Officer's removal from the Mahce Caunta in March 1828: he, however, admitted that on one occasion he obtained four months' leave of absence, viz. from the month of ^{Anad 1889}_{6th July ad Aug. 1890} to the month of ^{Kartick 1883}_{30th Oct. ad 29th Nov. 1826}. The Prosecutor, had not his reply to the Defence been interrupted, would have been able to prove that, about the time alluded to, Hunsraj, a member of

the Firm of Soonderjee Sewjee, visited Sadra, and being for some cause dissatisfied with Govindjee, gave him his dismissal; and that from that date he never again obtained employment in the Mahee Caunta. On losing his situation at Sadra, Govindjee came to Ahmedabad, and entered the service of Patell Jugabhye and Parick Hutheebhye; the former of the Firm of Patell Tfecum Hurjee—the latter of the Firm of Kooshall Nhat. About this time these Sowcars engaged in some mercantile speculations at Oodepoor; and Govindjee, about the month of ^{Kartick 1883} Nov. 1886, was sent to superintend their affairs in that quarter, and did not return until the month of ^{Vysack} May 1887 following. From this date up to the period of Colonel Ballantine's removal, Govindjee was not in the Mahee Caunta, but resided alternately at Ahmedabad and at Morver, in Kattywar. To prove the above particulars, it was the Prosecutor's intention not only to have summoned the Sowcars from whom Govindjee received employment after his dismissal at Sadra, but to have produced their Chopras, in which his name and the salary he received is entered, and several original letters addressed to them by Govindjee, as their Agent at Oodepoor; the first of the series being dated from that place the 6th of January—the last on the 31st of March, 1827. The fact of his not having been on the Mahee Caunta Establishment when Mr. Hornby received charge from Colonel Ballantine in March 1828, would have been proved by the evidence of that Gentleman, and official Records specifying the names of the persons who did compose the Establishment of the Agency at the period in question.—I, Mr. President, in the course of this enquiry, have been charged with the heinous crime of moral subornation of perjury, for the inoffensive act of receiving, with the feeling described in Captain Prescott's evidence, petitions in my official capacity from those placed under my authority; and this provokes from me the remark that, whoever induced Nanjee to appear before you, and to deny all connection with the Firm of Soonderjee Sewjee, during the period he was Colonel Ballantine's *Sherishtedar*, when two of the members of that Firm declare that, during the whole of that period, he was managing Agent of their Shop at Sadra—whoever persuaded Heerachund Wusta, the discarded Carbarry of Tejpoo, to appear before you, and to state that he had been authorized by his master to give an acquittance for his Seerpao, when he was obliged to admit that he had been dismissed seven months since from his situation, and was on terms of hostility with his former master—and whoever induced Govindjee to come and state before you that he was at Sadra, superintending Colonel Ballantine's Receipts and Issues of Presents, at a period when, by letters in his own hand-writing, he is proved to have been at Oodepoor, superintending the mercantile affairs of a Firm in this City—that person or persons, whoever they may be, are indeed morally guilty of subornation of perjury; and it only required that the evidence taken before your Commission, should have been delivered under the solemnity of an oath, to have likewise rendered them legally guilty of that flagrant crime.

(True Extracts.)

J. P. WILLOUGHBY, B. C. S.

Appendix K.

Memorandum alluded to in Paragraph 21 of the Memorial.

“ In consequence of the refusal, on the part of the Defence, to furnish the Commission with
 “ authority to the Firm of Soonderjee Sewjee, to produce the account-books of their transactions with
 “ the late Mahee Caunta Agency, which Hunsraj, a member of the Firm, admits are in his possession,
 “ and consents to produce on receiving Colonel Ballantine's authority to do so, the Prosecutor submits,

“ for the consideration of the Commission, that, in conformity with a rule of law, so frequently cited
 “ by the Defence, so long as primary evidence is obtainable, secondary evidence is inadmissible, the
 “ greater part of the evidence as yet recorded by the Defence, on the 4th, 5th, 6th, and 7th Charges,
 “ is rendered nugatory, since a better species of evidence, known to exist, is withheld.—Vide Ch. 7th,
 “ Sect. 6th of *Phillips's Law of Evidence*.

“ The withholding this authority is pregnant with suspicion, and confirms in some degree the
 “ information that has reached the Prosecutor, that the genuine books of the shop of Soonderjee
 “ Sewjee at Sadra would prove—1st, that the whole of Colonel Ballantine's Mohsullee collections
 “ have not yet been acknowledged;—2d, that the true appropriation of the Seerpao Grant of
 “ 61,640 Rupees conceded to the Tributaries, would be found recorded in these books;—3d, that
 “ interest to a considerable amount was collected from the Tributaries; and that the sixteen days'
 “ interest, alluded to by one of the witnesses for the Prosecution, was levied as a *general practice*, not
 “ as a discount charged by the Firm, but in the name of Government;—4th, that the realizations of
 “ the Sadra Bazar Taxes would appear in these books;—5th, that they would shew that the Firm was
 “ a Potedar (or Bank) for the receipt of the Mahee Caunta Tribute, and that the Tribute did not
 “ reach the Guicawar at the exact period of payment, and that Colonel Ballantine intermediately
 “ derived benefit from the deposit;—6th and lastly, that a genuine Chopra of Colonel Ballantine's
 “ transactions with the Firm would exhibit fines and other unauthorized receipts to a large amount, as
 “ having been made under his authority from the Mahee Caunta Tributaries, but more especially from
 “ the Rajah of Edur and the Chief of Mondetta.

“ This information is recorded in the hope and expectation that the Defence will be induced to
 “ remove the suspicion that cannot fail to arise from the authority, required for the production of the
 “ whole of the books, adverted to in Hunsraj Jetance's deposition, being withheld, and to demand their
 “ immediate transmission to the Commission; more especially since all public connection with his
 “ Firm has heretofore been preemptorily denied by the Defence.

(Signed) “ J. P. WILLOUGHBY,
 “ *Prosecutor on the part of Government.*”

(True Copy.)
 J. P. WILLOUGHBY, B. C. S.

Appendix L.

To Charles Norris, Esquire, Chief Secretary to Government, Bombay.

SIR,

1. I yesterday learned on good authority that a lithographed paper has lately been published regarding Colonel Ballantine's Case, and that it contains reflections highly injurious to my character, both as a public Servant and as an individual.

2. I have not yet succeeded in obtaining a copy of this document; but I take the earliest opportunity of recording my intention that, should I find it to be of the nature described, I shall in all probability

deem it my duty, when Colonel Ballantine's Case has been finally disposed of, to solicit the permission of Government to publish a Reply to the statement, in refutation of any allegations it may contain in any way reflecting on my public or private character.

I have, &c.

(Signed) J. P. WILLOUGHBY.

AHMEDABAD, 21st December, 1831.

No. 25.

POLITICAL DEPARTMENT.

BOMBAY CASTLE, 5th January, 1832.

SIR,

In reply to your Letter of the 21st ultimo, stating your having learned from good authority that a lithographed paper has been published regarding Colonel Ballantine's Case, containing reflections highly injurious to your character, both as a public Servant and as an individual, and soliciting the permission of Government to your publishing a Reply thereto; I am directed by the Right Honourable the Governor in Council to acquaint you that, if in the course of the proceedings before the Commission, you should see occasion to require the protection * of the Paper alluded to, you are authorized to apply to the Commission for it.

I have the honour to be, &c.

(Signed) C. NORRIS, *Chief Secretary.*

To J. P. Willoughby, Esquire, Political Agent in Kattewar, Ahmedabad.

To Charles Norris, Esquire, Chief Secretary to Government.

SIR,

1. I have the honour to request that the Right Honourable the Governor in Council will be pleased to grant me permission to visit the Presidency as soon as my presence at Ahmedabad is dispensed with by the Commission.

2. A principal object of my visit to Bombay is, after having obtained the permission of Government, to make arrangements for publishing such Reply as I may consider necessary to the publication alluded to in my Letter of the 21st of December last, which I find on perusal to contain statements highly injurious to my character, both as a Servant of Government and an individual, and which I am informed has for some months past been in extensive circulation.

I have the honour to be, &c.

(Signed) J. P. WILLOUGHBY.

AHMEDABAD, 10th April, 1832. *

* N.B. The Memorialist never could understand the meaning of this answer. It was difficult to perceive how the Commission at Ahmedabad could protect him against a Pamphlet not in their possession, circulating in Bombay. He had, however, gained the object of his reference, and did not therefore trouble Government by seeking an explanation.

No. 595.

POLITICAL DEPARTMENT.

BOMBAY CASTLE, 21st April, 1832.

SIR,

I am directed by the Right Honourable the Governor in Council to acknowledge the receipt of your Letter, dated the 10th instant, and to signify to you that his Lordship in Council is sorry that he cannot comply with your request; as the Public Service requires your presence in Katteewar, from which place you will be as well able to defend yourself from any attacks on your character, as in Bombay.

I have the honour to be, &c.

(Signed) C. NORRIS, Chief Secretary.

To J. P. Willoughby, Esquire, Political Agent, Katteewar.

*Extract of a Letter from J. P. Willoughby, Esquire, to the Chief Secretary to Government,
dated 28th June, 1833.*

19. In conclusion, I trust it is unnecessary to disclaim the remotest intention of disrespect, in submitting for the consideration of the Right Honourable the Governor in Council the observations I have made upon the reference to Mr. Borrodaile. My objects are fairly stated in the 2d paragraph of my Letter. As having been compelled, in obedience to the orders of Government, to officiate as Prosecutor against Colonel Ballantine, I feel that I have only done my duty in pointing out that the reference to Mr. Borrodaile, unless he is furnished with the information I have suggested, may compromise the interests of Government; and I feel a still stronger conviction that his Lordship in Council will not object to my having attempted to shew that this reference, unaccompanied by that information, may, however unintentionally, give a colour and weight to the counter charges to which the performance of this duty has subjected me. Unfortunately, Colonel Ballantine, from the course he has been advised to adopt, has rendered it impossible for me to view his Case as one simply relating to Government and two of its Servants. He has thought fit to appeal to the public Press; and in a Book of 300 pages has openly and broadly charged me with the commission of some of the most heinous crimes a man can be guilty of. I brought this circumstance to the notice of Government the moment I became acquainted with the Book being in circulation; and recorded my intention that, in the event of finding it of the nature described, I should probably consider it my duty, when Colonel Ballantine's Case was disposed of, to publish a Reply in refutation of any reflections it might contain on my public or private character. Soon after the date of that communication, a Copy of the Book came into my possession; and I found that the attack made in it upon my character exceeds, both in virulence and boldness of assertion, any thing I could have anticipated. It portrays me as the promoter of false and malicious charges—the fabricator of documents to support them, and the suppressor of others necessary to refute them—the suborner of perjury—the concoctor of false petitions—and the pilferer of the Company's Treasury.

I have also ascertained that this Publication has received a very extensive circulation, and that on its appearance it excited a strong prejudice against me. It was seen at Kaira, and likewise at Tanna; and I am able to prove that it was either sent to, or has been perused by, most of the principal Civil and Military Officers at the Presidency. Under these circumstances I am sure his Lordship in

Council will not feel surprised, that my having been so long obliged to allow such calumnies as the above to pass current unanswered and unrefuted, has been extremely irksome and painful to my feelings; and that I am anxiously awaiting for the period to arrive, when I can, consistently with propriety, and the respect due to Government, take the vindication of my character into my own hands. I shall only further observe, that the Book in question has now been on the Records of Government nearly two years, in the shape of an Address from Colonel Ballantine to the Chief Secretary to Government, dated the 16th of August, 1831; that at least one half of Colonel Ballantine's Defence before the Ahmedabad Commission was extracted from it, and that the most ample opportunity was afforded for substantiating, before that Commission, the accusations it contains against me, during the progress of the enquiry instituted at Ahmedabad, and conducted with every publicity. Situated as I am, his Lordship in Council will not, I should hope, be disposed to refuse my solicitation to be furnished with a Copy of the Commission's Report and Proceedings; and I trust I am further justified in requesting to be informed, as early as circumstances will admit, whether it is intended to publish the result and finding of the Commission assembled at Ahmedabad—or in pointing out the imperative and absolute necessity which exists of my publishing a Reply, grounded upon the authentic materials in my possession, to Colonel Ballantine's libellous Publication, unless it is noticed in such a manner as may obviate the necessity of obtruding myself on the Public through the same channel as that by which my character has been assailed.

Extract from the Reply thereto, dated the 27th August, 1833.

3. The Right Honourable the Governor in Council regrets exceedingly that Colonel Ballantine should have been so ill advised as to publish any charge against you. His Lordship in Council knows nothing on the subject; and it will be for you to determine, after the decision of Government has been made known to you, whether you will take any, and what notice of the libels which you state have been published against your character.

4. His Lordship in Council cannot comply with your request to be furnished with the official documents alluded to in the 19th paragraph of your Letter, as it would be extremely improper to allow the Records of Government to be searched, to afford materials for any Publication such as you contemplate; and as you state that you have materials in your possession to enable you to reply to Colonel Ballantine's Book, any further information from Government must be unnecessary.

5. The Right Honourable the Governor in Council is surprised that a Gentleman of your experience should suppose that Government ever thought of publishing the result and finding of the Commission:—you must be aware that the proceedings of Government are only communicated to the Home Authorities, and that an appeal to the Public would be both unusual and indecorous.

6. His Lordship in Council further directs me to state, that you may be quite satisfied that he attaches no weight whatever to the charges brought against you by Colonel Ballantine in the documents on record; and with reference to what is stated in the 17th paragraph of your Letter, desires to relieve you from all anxiety, as there is no intention whatever of directing you to appear before Mr. Borrodaile; but that Gentleman's Report must be awaited, before Government can come to a final decision on the accounts submitted for his investigation.

7. The Governor in Council regrets exceedingly that you should feel yourself interested in the issue of the enquiry; as it appears to his Lordship in Council that, whether Colonel Ballantine shall be condemned to pay one Lac of Rupees, or only one Rupee, you will stand precisely in the same situation in which you stood before the enquiry commenced at Ahmedabad.

To Charles Norris, Esquire, Chief Secretary to Government.

SIR,

1. In the reply I am preparing for eventual publication (should such become necessary) to Colonel Ballantine's Book, charging me with the heinous offences briefly recapitulated at the conclusion of my Letter of the 28th of June last, I find myself called upon to refute the charge of having on two previous occasions advanced false and malicious Charges against Colonel Ballantine; viz. in the cases of Dhareejee, the Chief of Wancaneer, and of Lucka Meya, the Chief of Koraal.

2. I rely with confidence on the justice of Government to afford me every aid in defending myself from the calumnious imputations to which I am subjected from the conscientious discharge of my public duty:—I therefore respectfully request that the Right Honourable the Governor in Council will be pleased to permit me to be furnished with Copy of the under-mentioned Documents, which I find necessary for my defence on the above accusation.

1st. The Petition from Dhareejee, complaining against Colonel Ballantine; and my letter forwarding it to Government.

2d. The Order of Government, directing me to investigate the subject.

3d. My Letter, recommending that the investigation should be transferred to other hands.

4th. Letter from Government, transferring the enquiry to Mr. Romer, and at the same time commending the delicacy of my suggestion, dated, I believe, in September 1827.

5th. The Petition of Lucka Meya, of Koraal, complaining against Colonel Ballantine; and my Letter forwarding it.

6th. Letter from Government to Colonel Ballantine, informing him, in relation to the above Petitions, that I was merely the official channel of their receipt, and that I only acted in regard to them as directed by Government.

3. I beg to explain that I shall not avail myself of the information above solicited, except as a last recourse, and not until after Government has passed a decision upon Colonel Ballantine's Case; but at present I am advised that, whatever this may be, having been attacked in print, I am bound to vindicate my honour in the same public manner; and from the propriety of doing so I cannot dissent. The information is now solicited, in order that I may be prepared with my reply the moment I can with propriety publish it; for, as I have already observed, the calumnies of which I complain, have now been in circulation nearly two years; and their remaining so long unanswered, cannot fail, I fear, to have produced an unfavourable effect against me in the opinion of those who do not know me, and who are unacquainted with the circumstances that have forced me into my present painful position.

I have the honour to be, &c.

(Signed) J. P. WILLOUGHBY.

RAJCOTE, 6th September, 1833.

No. 1375.

POLITICAL DEPARTMENT.

BOMBAY CASTLE, 1st October, 1833.

SIR,

1. I am directed to acknowledge the receipt of your Letter, dated the 6th ultimo, requesting to be furnished with Copies of certain Documents from the Records of Government, to enable you to reply to Colonel Ballantine's charges against you, in the cases of Dhareejee, the Chief of Wancaneer, and Lucka Meya, the Chief of Koraal.

2. In reply, I am instructed to signify to you that, for the reasons communicated to you in Mr. Chief Secretary Norris's Letter of the 27th August, paragraph 4, the Right Honourable the Governor in Council is precluded from complying with your request. In the event, however, of your being advised to prosecute Colonel Ballantine for a libel, every facility on the part of Government will be afforded to you to prove the charge.

I have the honour to be, &c.

(Signed) JOHN BAX, *Secretary to Government.**To the Political Agent in Katteewar.**To Charles Norris, Esquire, Chief Secretary to Government.*

SIR,

1. I have the honour to acknowledge the receipt of your Letter* and enclosures, dated the 8th instant, communicating to me the decisions and sentiments of the Right Honourable the Governor in Council on the several Charges against Colonel Ballantine investigated by the special Commission at Ahmedabad; and conveying to me the censure and dissatisfaction of his Lordship in Council at my remissness and neglect of duty, when in charge of the Baroda Residency, in not exercising an efficient and vigilant controul over Colonel Ballantine's administration.

2. However reluctant I feel to contend against the judgment of Government, I cannot shrink from the imperative duty devolving upon me, of endeavouring to defend myself from the imputations contained in your Letter against my official character during so long a period of my service in India; and on my return to Rajcote, where my papers are deposited, I shall take the earliest opportunity of doing so. I shall only now observe, that I am quite satisfied I shall ultimately be able to shew, from the Records of Government, that I exercised such a controul over Colonel Ballantine's acts, during such periods as I temporarily officiated as Resident, as circumstances and the usages of the Service permitted; and that, whatever failings may be imputed to me in other respects, that of remissness in the discharge of my public duty, or, what is far worse, wilful neglect of Colonel Ballantine's misconduct, is not one of them. I trust to be able to shew that some part of the proceedings, to which the censure of his Lordship in Council applies, was duly reported for the information and instructions of superior authority; that with another portion I was altogether ignorant; and that the controul vested in me, was not of such a nature as to afford me the means of becoming acquainted with them: and in this case the severe censure of Government, passed upon me for remissness, will only apply to my not

* For this refer to Appendix B.

having called upon Colonel Ballantine for accounts, which, as was proved before the Commission, that Officer had received orders direct from Government to keep, and that he took an oath that he would keep them.

3. I hope to be pardoned the expression of the deep mortification I have felt, by observing that no notice has been taken, at the termination of the proceedings instituted by Government against Colonel Ballantine, of the foul libels which that Officer has presumed to publish against my character, beyond a cold declaration that his Lordship in Council believes in the purity and honesty of my intentions and motives. I must therefore respectfully remind the Right Honourable the Governor in Council that, in like manner as the Chief Secretary to Government has, in the performance of his public duty, become the object of "a * scandalous and unjust attack, and unjust and untrue aspersions," from Colonel Ballantine, so have I become the object, only in a tenfold degree, of a similar attack; with this material difference, that whereas the former is contained in a document that has merely met the eye of Government, the latter has been published in a lithographed Pamphlet, and extensively circulated under this Presidency. I cannot therefore consider that my expectation will be deemed unreasonable—that I am at least deserving of the same degree of consideration from Government as has so properly been extended to the highly distinguished public functionary above alluded to.

4. I beg on this occasion respectfully to solicit that the Right Honourable the Governor in Council will be pleased to reconsider the application made in my Letters, dated as per margin †, to be furnished with Copy of the Commission's Report, and of other Documents therein enumerated, which I consider essential to the full and complete vindication of my character from the attacks against it in the execution of my duty, to be found in Colonel Ballantine's Publication. *It is now my intention (for I have no alternative) without further delay, to justify my proceedings, through the same channel as that by which they have been so grossly misrepresented and aspersed;* and I confidently hope that, on reconsidering all the circumstances which compel me with reluctance to obtrude myself on public notice, his Lordship in Council will feel himself justified in deviating from general rule, and be able to comply with my solicitation, to be supplied with certain official documents, with the view of facilitating my reply to the imputations against me, contained in an official document published nearly three years since, and the publication of which, as far as I am informed, has met no censure.

5. In the event of his Lordship in Council being still of opinion that my request is inadmissible, I sincerely hope that no objection will present itself to one of a more modified nature being complied with, viz. that I may be furnished with any extracts from the Commission's Report, in which my conduct, as Colonel Ballantine's Prosecutor, is noticed. I take it for granted that the Commission, either in justice to Colonel Ballantine or myself, have recorded their opinion on the subject; for, however true it may be in the abstract, that recrimination is no extenuation, still if the Commission had observed aught of the malice and vindictive spirit with which I am so largely charged, it would obviously have been their bounden duty to have stated that such a taint had been established against the Prosecution; whilst, on the other hand, if the Commission were convinced that the whole of my proceedings were grounded in integrity, and an honourable sense of duty, it was, I conceive, equally their duty to have noticed Colonel Ballantine's vilifications of my character, as an aggravation of such of the original Charges as they may have considered proved against him. I feel the more anxiety on the subject as, on a reference to the Commission, his Lordship in Council will learn that, from the commencement to the termination of their proceedings, I avowedly conducted myself as if I had been on my own trial upon the charges Colonel Ballantine has published against me; that every

* Vide Government Letter to Colonel Ballantine, dated 8th March, 1834—Appendix C.

† 28th June, 1833, and 6th September, 1833.

facility was afforded him to prove them ; and that the only two attempts he made to accomplish this object, rebounded * against himself. I trust, therefore, his Lordship in Council will not deny me the benefit of the opinion which may have been formed by the three Gentlemen selected by Government to constitute the Commission ; for it must be obvious that, from the ample opportunities they possessed of coming to a right conclusion on the subject, their opinion will have greater weight with those to whom I am about to appeal, than that proceeding from any other authority.

6. In the 3d paragraph of your Letter, dated the 27th of August last, I was informed that the Right Honourable the Governor in Council knew nothing on the subject of Colonel Ballantine's Publication. Circumstanced as I am, I must waive all minor considerations, and acquaint his Lordship in Council that I have learned, on authority which I have every reason to believe to be correct, that a copy of the Pamphlet came into the possession of Mr. Sutherland, one of the Members of Government, and that it was lent by him to another Gentleman at the Presidency, from whom I indirectly, though accidentally, derive my information. I should hope, therefore, that if, as I believe, my information is authentic, that high public functionary will feel disposed to apprise his Lordship in Council of the mode and manner in which so falsely libellous a Publication was sent into circulation. I further beg leave to state, that I have certain information that Colonel Ballantine's Pamphlet was in the possession of many of the chief Civil and Military Officers at the Presidency ; and that it was likewise circulated in the interior, undoubtedly with the object of forestalling public opinion in Colonel Ballantine's favour, and of prejudicing me in the opinion of the Military and Civil Services of this Presidency, and of society in general.

7. In conclusion, and with the view of supporting my present appeal to Government, I append to this Letter twenty-seven extracts from the Pamphlet in question. I did not suppose that one Servant of Government could, with impunity*and without censure, publish an official document containing such gross defamatory libels as are contained in these extracts ; but I should consider myself totally undeserving of public trust and confidence, were I to spare any trouble or expence in enabling the world to form right conclusions upon the questions at issue between Colonel Ballantine and myself : and his Lordship in Council will readily imagine that, although it is not my present intention to follow the course apparently indicated in Mr. Secretary Bax's Letter, dated the 1st of October last, viz. to appeal for redress to a Court of Law, I shall (under the compulsion I feel to obtrude myself on public notice) court the strictest scrutiny and the freest discussion of the charges published against me.

I have, &c.

(Signed)

J. P. WILLOUGHBY.

CAMP, SYLAH, 21st March, 1834.

No. 558.

POLITICAL DEPARTMENT.

BOMBAY CASTLE, 19th April, 1834.

SIR,

1. I am directed by the Right Honourable the Governor in Council to acknowledge the receipt of your Letter, dated the 21st ultimo, in answer to mine of the 8th ultimo, communicating to you the decisions of Government on the Charges against Colonel Ballantine, and its

* I here refer to the evidence of Captain Shaw and Lieutenant Prescott.

sentiments in regard to the degree of superintendence exercised by you, when in charge of the Baroda Residency, over Colonel Ballantine, while Political Agent in the Mahee Caunta.

2. His Lordship in Council directs me to express to you his regret that you should think that you have not met with due consideration from Government, in regard to the attacks made on your character by Colonel Ballantine in his Letter of 16th August, 1831. These attacks have had, I am directed to state, no weight with Government, as is clearly shewn by its having given you full credit, in the most explicit terms, for the purity and honesty of your intentions; nor does his Lordship in Council believe that you have been in any respect injured by the document in question, the publication of which was unknown to Government until reported by you.

3. The Right Honourable the Governor in Council cannot, I am instructed to state, consent to your being furnished, as you request, either with copies of the Commission's Report and the documents accompanying it, or with certified extracts of such parts of the Commission's Report as notice your conduct as Colonel Ballantine's Prosecutor.

I have the honour to be, &c.

(Signed) C. NORRIS, *Chief Secretary.*

To J. P. Willoughby, Esquire, &c. &c. &c.

To Charles Norris, Esquire, Chief Secretary to Government.

SIR,

1. From the tenor of the 7th and 8th paragraphs of your Letter to Colonel Ballantine, dated the 8th ultimo, I am led to believe that that Officer may have placed on the Records of Government other charges against me, besides those contained in his Publication alluded to in my Letter of the 21st ultimo.

2. Under this impression, I beg respectfully to solicit that I may be furnished with Copy of Colonel Ballantine's Letter to Government, dated the 20th of August, 1832, and of the remarks that accompanied it, and of any other Letters that may have been received from him, containing further vilifications of my character and conduct in the discharge of duties imposed upon me by Government. It is hardly requisite to explain that my request is grounded on the idea that, if Government receives, and places on its Records, for ultimate transmission to the Honourable Court of Directors, documents reflecting upon the reputation of one of their Servants, justice requires that copies of the same should be furnished to the party so reflected on.

3. I avail myself of this opportunity to declare that it would have been far more satisfactory to me, had his Lordship in Council been pleased to require and demand of, instead of rendering it optional with, Colonel Ballantine to establish the counter charges he has at various times thrown out against me. Some of these are of such a serious nature, and at the same time so susceptible of proof, if well-founded, that I cannot feel satisfied if they are simply passed over with a declaration on the part of Government that they are undeserving of credit. I allude more particularly to the charges "of moral * subornation of perjury;" of forgery *; "of the manufacturing of false, and suppression of true evidence;" and "of having myself written the Resident's Letter, forwarding, in terms of approbation, my own Letter of the 20th of September, 1828." The above charges are preferred in a tangible

P. 40	}	C
P. 65-110		
P. 139-204		
P. 192		
		Bal
		Pa

shape, and are too serious not to deserve a strict investigation. I am innocent of all and every part of the base conduct Colonel Ballantine imputes to me; and am consoled with the reflection that, could I even have foreseen the anxieties and difficulties I have had to encounter, and the odium and prejudice excited against me for reporting on Colonel Ballantine's fraudulent accounts, I could not have avoided making the exposure, without a breach of my covenant with the East India Company, and a sacrifice of my own honour. Should his Lordship in Council be pleased to call upon Colonel Ballantine to substantiate his counter charges, it would be much to my advantage: should one iota of them be proved, I shall ask neither for favour nor indulgence. If, however, the result proves them to be nothing more than defamation and declamation, the conduct of my calumniator requires to be severely reprehended; that persons in future, who may have the misfortune to be placed in the situation I have been in, may have the satisfaction of knowing they will receive the protection and support of Government against any calumnies and slanders which the discharge of such duty may expose them to, and which, with deep regret, I feel has not hitherto been extended to me.

I have the honour to be, &c.

(Signed) J. P. WILLOUGHBY.

CAMP, POREBUNDER, 22d April, 1834.

No. 671.

POLITICAL DEPARTMENT.

BOMBAY CASTLE, 12th May, 1834.

SIR,

1. I am directed by the Right Honourable the Governor in Council to acknowledge the receipt of your Letter dated 22d ultimo, requesting that you may be furnished with a Copy of Colonel Ballantine's Letter of 20th August, 1832, and of the remarks which accompanied it, and of any other Letters that may have been received from him, containing further vilifications of your character and conduct in the discharge of the duties imposed upon you by Government; and to signify to you, in reply, that his Lordship in Council declines acceding to your request.

2. Copies of all the official documents in Colonel Ballantine's Case are, I am directed to state, transmitted to the Honourable the Court of Directors, who will, his Lordship in Council is persuaded, concur with this Government, that your character for integrity stands unimpeached.

I have the honour to be, &c.

(Signed) C. NORRIS, *Chief Secretary*.

To J. P. Willoughby, Esquire, &c. &c. &c.

No. 1132.

POLITICAL DEPARTMENT.

BOMBAY CASTLE, 23d July, 1834.

SIR,

1. The attention of Government having been directed to a Letter from you which appeared in the Courier Newspaper of the 15th of this month, and to the fact of your having offered for publication an official communication made to you by Government on the 5th of October, 1830, on the

subject of the Charges you had brought against Colonel Ballantine, I am instructed by the Right Honourable the Governor in Council to bring to your notice that you were informed on the 27th of August, and again on the 1st of October, 1833, that Government would not allow the Records to be searched, to afford materials for any such Publication as you contemplated; in the face of which prohibition you ventured to offer to the Editors of the Courier and Gazette Newspapers for publication, an official document in your possession, which the Editors very properly declined to print, giving you at the same time a severe and just rebuke for your proceeding.

2. His Lordship in Council therefore directs me to express to you his displeasure at your having thus acted in opposition to the orders of Government, and positively to forbid you from publishing in the Newspapers, or in a Pamphlet, any official communication from Government in your possession, relating to the Case of Colonel Ballantine; and you are directed, if any Pamphlet has been already published by you, containing official Letters from Government, immediately to suppress it.

I have the honour to be, &c.

(Signed) C. NORRIS, *Chief Secretary.*

To J. P. Willoughby, Esquire, Political Agent in Katteewar.

To Charles Norris, Esquire, Chief Secretary to Government.

SIR,

1. I had yesterday the honour to receive your Letter of the 23d ultimo, conveying to me the displeasure of the Right Honourable the Governor in Council at my having acted in opposition to the orders of Government, in having ventured to offer to the Editors of the Courier and Gazette Newspapers for publication, an official document in my possession; positively forbidding me from publishing in the Newspapers, or in a Pamphlet, any official communication in my possession from Government, relating to the Case of Colonel Ballantine; and directing, if any Pamphlet has already been published by me, containing official Letters from Government, that I immediately suppress it.

2. In expressing my sincere regret at having incurred the displeasure of his Lordship in Council by the above proceeding, I beg respectfully to state that, far from conceiving it to be in disobedience to his orders, I considered that, in having recourse to it, I was only availing myself of the permission of Government, conveyed in Mr. Secretary Bax's Letter of the 27th of August, 1833, "to determine, after the decision of Government has been made known to me, whether I should take any, and what notice of the libels" which I had reported Colonel Ballantine had sent into circulation against me. In this permission I not unreasonably concluded that Government recognised my right to avail myself of the official documents in my possession, and of the facts elicited in an open Court of Justice, in vindicating myself from accusations of a most serious nature, contained in an official Letter to the Chief Secretary to Government, circulated by my opponent without any censure or notice from Government, although it abounds with numerous extracts and quotations from other official documents, and even contains some severe reflections against the Government of 1830, and more particularly on the conduct of the highly distinguished personage at the head of that Government, the late lamented Sir John Malcolm. It occurred to me that the only difference between the course pursued by Colonel Ballantine, and that I wish to adopt, is that, whereas he surreptitiously and clandestinely, without my knowledge, and without sending me a copy, sent into circulation his unfounded attack on my character, I desire to reply to that attack in the most public and open manner; and few will entertain a doubt which of these two proceedings is the

more manly and honourable. Never having received any interdict from Government against making use of the official documents and proceedings in my possession, the thought never suggested itself that, whilst his Lordship in Council fully recognised my right to exercise the privilege of every Englishman, from the Peer to the Peasant, to defend his character when unjustly assailed, it was at the same time his intention to debar me from the use of the only materials from which I can make my Defence.

3. In order to explain how I have been misled, by the Letters I have received from Government, into the adoption of the proceeding for which I am now censured, it is requisite that I should refer to my correspondence on the subject of Colonel Ballantine's Publication.—On the 21st December, 1831, only four days after the opening of the Commission at Ahmedabad, I reported to Government that I had learned that a lithographed paper had been published regarding Colonel Ballantine's Case, containing reflections highly injurious to my character, both as a public Servant and an individual, and intimated my intention, when Colonel Ballantine's Case had been disposed of, to apply for the permission of Government to reply to the allegations it contained against me. Your reply * made no objection whatever to my publishing a reply, but merely informed me, "if in the course of the proceedings before the Commission, I should see occasion to require the protection of the Paper alluded to, I was authorized to apply to the Commission for it." Shortly after the above communication, I obtained, with considerable difficulty, a Copy of the Paper, and found that it consisted of *Colonel Ballantine's Letter to Government, of the 16th of August, 1831*, published in a Pamphlet of 300 pages. On the 10th of April, 1832, expecting to be discharged from further attendance on the Commission, I applied for leave to visit the Presidency, in order that I might apply for permission to publish a Reply to the Pamphlet, "which I find on perusal to contain statements highly injurious to my character, both as a Servant of Government and an individual, and which I am informed has for some months past been in extensive circulation." Your reply again made no objection to the step I meditated; but, refusing me leave to proceed to Bombay, because the Public Service required my presence in Katteewar, informed me "I should be able to defend myself from any attacks on my character as well from that place as in Bombay." For the reason stated in the 2d paragraph, I construed this reply into a full permission to make free use of the only materials from which I am able to prepare a Defence. On the 28th June, 1833, when making certain objections, on public grounds, to the mode in which the reference to Mr. Borrodaile on Colonel Ballantine's Case had been made, I again reverted to the Pamphlet, and entered into an explanation of the heinous accusations it contained against me; expressed my anxiety for the arrival of the period when, "consistent with propriety, and the respect due to Government," I could vindicate myself; and applied for certain documents in aid of my Defence; concluding by pointing out "the imperative and absolute necessity which exists of my publishing a Reply, grounded on the authentic materials in my possession, to Colonel Ballantine's libellous Publication; unless it is noticed in such a manner as may obviate the necessity of obtruding myself on the Public, through the same channel as that by which my character has been assailed." Surely his Lordship in Council will admit that in this Letter I did not conceal the impressions I entertained that, in defending myself from attacks contained in an official document in circulation against me, with an incalculable power to do me injury, as bearing apparently the sanction of Government, I was at full liberty to avail myself of similar documents in refuting those attacks; for what other "authentic materials" could be in my possession, regarding a Case which is altogether official, and which, had it not been for Colonel Ballantine's Pamphlet, would always have remained so, as far as I was concerned, except the official documents in which my Case is comprised?—Mr. Bax's Reply † confirmed these impressions, and misled me into the course I have since adopted; for, although it refused me the documents I had applied for, to aid my Defence, the 3d paragraph informed me, "his Lordship in Council knows nothing on the subject, (i. e. of Colonel Ballantine's Pamphlet); and it will be for you to determine, after the decision of Government has been made known

* Dated 5th January, 1832.

† Dated 27th August, 1833.

"to you, whether you will take any, and what notice of the libels which you state have been published against you;" and in the 4th paragraph is an observation which I interpreted into a direct sanction to my availing myself of such documents as were already in my possession, viz. "as you state that you have materials in your possession to enable you to reply to Colonel Ballantine's Book, any further information from Government must be unnecessary."—On the 6th September, 1833, I requested I might be furnished with certain documents, not included in my first application, to facilitate a Reply to Colonel Ballantine's Publication "under preparation;" and your reply, although it refused the documents, informed me that, "in the event of my being advised to prosecute Colonel Ballantine for a libel, every facility on the part of Government will be afforded me to prove the charge." The tenor of this communication tended still more strongly to strengthen my impression that I was at liberty to make use of all official documents in my possession; because it encouraged me to resort to measures which would have made public every document connected with the Case, and which I should certainly have had recourse to, had I not thought that, being able to disprove Colonel Ballantine's accusations *by facts elicited in an open Court of Justice*, of which I might freely avail myself, there was no occasion for my seeking for redress from another Court of Law. Conscious, in fact, of the rectitude of my conduct throughout these proceedings, I had determined to confine my Defence to a full and detailed statement of facts to be laid before the Public, leaving it to judge on the matters at issue between Colonel Ballantine and myself; but it must be quite obvious that the only source from whence these facts could be drawn, was official documents. On the 10th October, 1833, I again reverted to the Pamphlet, when forwarding a *Precis of Facts* I considered proved before the Commission at Ahmedabad, and which I certainly should never have made official, had I thought, by doing so, that I should have been debarred the right of making use of that document in my defence, when, in fact, I intended to make it the groundwork of that defence; but I am still inclined to hope that this important Paper is not included in the present interdict. I received your letter of the 8th of March last, communicating to me the decisions of his Lordship in Council on Colonel Ballantine's Case, at Wudvan on the 19th; and on the 21st expressed the mortification I had experienced from finding that no notice was taken at the termination, of an enquiry which had afforded Colonel Ballantine full opportunity of substantiating all he had addressed to Government, and published against me in his Pamphlet; and contrasted the degree of protection extended by Government to yourself, for an unjust attack Colonel Ballantine had made upon you, with the little support extended to me. On this occasion I reiterated my request to be supplied with official documents, and repeated my intention of publishing a Reply in self-vindication of my conduct:—I also stated that it had come to my knowledge that Colonel Ballantine's Pamphlet had come into the possession of one of the Members of Government, at a time when the investigation at Ahmedabad was in progress, and had been shewn by him to at least one other person; and I cannot conceal the feelings of regret and disquietude I experienced, from finding the correctness of my information (which before I could not doubt) confirmed, by the reply I received from Government being entirely silent on the subject. This fact, however, strengthened my impression that all official documents in my possession were available for my defence; because I could draw no other conclusion from it, than that it indicated that the high public functionary alluded to, if he did not countenance, that at all events he did not disapprove of Colonel Ballantine publishing an official document to my detriment, and consequently that he would be the last person to question my right to defend myself by similar materials. In support of the above appeal, I enclosed 27 extracts from Colonel Ballantine's Book, charging me, in the most undisguised manner, with some of the worst crimes a man can commit. Your reply † again refused me the documents, and declared me, in the opinion of Government, to be innocent of the charges in circulation against me. But the unpublished verdict of no tribunal, however high, could remove from me imputations so extensively circulated; and on the 22d of April I considered that my painful situation required me to adopt some more decisive step to disabuse the public mind respecting my conduct: and accordingly I intimated my desire that Colonel

* Dated 1st October, 1833.

† Dated 19th April, 1834.

Ballantine should be peremptorily called upon to substantiate his charges against me, and requested to be furnished with Copy of a Letter which had been recorded, containing, as I have reason to believe, further accusatory matter against me. Your reply* took no notice of the first, and declined to accede to the second request.

4. The above summary is given in order to prove—

1st. That I have not wilfully disobeyed any order of Government in my possession ; because until your present Letter was received, no interdict was placed upon me against publishing official documents in refutation of Colonel Ballantine's accusations ; but, on the contrary, that I had every reason to believe that my doing so would be considered perfectly natural and justifiable.

2d. That before doing so, I endeavoured to induce Government to require Colonel Ballantine to prove his charges ; or to adopt itself such measures as would obviate the necessity of my replying to them at all.

3d. That the tenor of all the replies I received from Government, was to induce me to believe that I was at liberty to adopt "any and what measures" I might deem necessary ; and that, in the spirit of the age, his Lordship in Council had no objection to my collision with Colonel Ballantine being made the subject of free and temperate discussion.

4th. That although Government refused to supply me with certain official documents not in my possession, this refusal was not accompanied by any interdict to use those already in my possession, as I naturally concluded would have been the case, had any such intention been entertained ; but, on the contrary, on one occasion Government recognise my right to avail myself of "authentic materials" in my possession, which, from the nature of the case, could only allude to official documents.

5th. That Government having on various occasions countenanced my intention to defend myself, I never could suppose it was intended to render such design abortive, by debarring me from the free use of the only materials from whence my defence can be drawn.

5. Under the peculiar conflicting circumstances in which I feel myself placed by the restrictions imposed by your Letter under reply, and being most anxious to avoid even the appearance of placing myself in opposition to the authority of Government, I solicit to be expressly informed as to the degree of latitude intended to be conferred upon me, when I was told that, after the decision of Government on Colonel Ballantine's Case was communicated, it would be discretionary with me to take any and what notice of his abusive Publication. Is the present interdict, in short, to debar me from the use of official documents altogether in defending myself from the imputations published against me in an official document ? If so, the official character of the case renders an interdict of this kind tantamount to one against vindicating myself at all. For instance, how can I defend myself from the charge of subornation of perjury, without entering at length into the 7th Charge, in which it originates, and the evidence on which it rests ? How can I defend myself from the imputation of having preferred false and malicious, frivolous and vexatious Charges against Colonel Ballantine, without fully explaining the origin and nature of those Charges ? How can I vindicate myself from the charge of having fabricated a document in support of my Charges, except by shewing that the document I am stated to have forged, was legally proved in evidence, and is recorded on the Commission's proceedings ? How can I prove that I have not, on two former occasions promoted false and malicious Charges against Colonel Ballantine, without

* Dated 12th May, 1834.

entering into a review of the official transactions in which they originated? How can I disprove the imputation that I dictated or wrote certain letters in support of my own letters, signed by the Resident at Baroda and the Chief Secretary to Government, condemnatory of Colonel Ballantine's conduct? How, in short, can I explain the origin of my collision with Colonel Ballantine? How, in fact, when arraigned before the Public respecting my official conduct, in such a manner as seriously affects my integrity and honour, in a document published at the seat of Government, and although brought to its notice, without censure or remark of any kind, can I possibly reply effectually to the same, without entering deeply into official transactions, and availing myself largely of official documents, and the evidence elicited at Ahmedabad?—I feel quite persuaded that your interdict is not of so comprehensive a nature; or, at all events, if it is, his Lordship in Council did not perceive that its effect is altogether to deprive me of the right conceded to the humblest individual born in England, of vindicating his character whenever it is attacked. Wishing, however, if possible to avoid difficulties, I respectfully solicit instructions for my guidance, in order that I may shape my future proceedings as far as possible conformably thereto.

6. In your Letter of the 19th of April last I was informed "his Lordship in Council does not believe that I have been in any respect injured by Colonel Ballantine's Publication." In reply to this observation, and to explain the impulse under which I am acting, I beg to state that, as Colonel Ballantine has himself given publicity to the Charges against him, accompanied by recriminatory charges against me, a weight and colour have been given to the latter which did not attach to them before, in consequence of no apparent result having followed an enquiry of several months' duration, conducted with every publicity; in other words, the most erroneous impressions have gone abroad in consequence of neither party, nor both, being publicly acquitted or condemned, which have been confirmed by reports that all parties have been censured alike. The censure which I have received (and from which I have a defence in preparation) is well known, and gives an appearance of veracity to the charges in circulation against me, because the nature of this censure is unknown, and the community are left in doubt whether it affects my integrity or not; and the unpublished opinions of Government on this subject, favourable as they are, cannot relieve me from this doubt. I beg, however, to state that I possess the most decisive evidence of the injury which I have all along sustained, from being obliged to permit Colonel Ballantine's accusations to pass current so long uncontradicted; and I do not think his Lordship in Council will doubt this fact, when he is informed that I have been advised by one friend from a distant Station, that, so imperative is the duty I owe to myself to refute Colonel Ballantine's aspersions, I ought even to provide for my untimely death, and to bequeath this duty as a legacy to some one in whom I place confidence;—that a body of Officers recently arrived from Baroda at Rajcote (where, to be useful to Government, it is requisite that I should be respected) strongly prepossessed in favour of Colonel Ballantine, and, as a matter of course, prejudiced against me, his accuser;—that at a comparatively recent period, Colonel Ballantine's Book was in circulation at one of the principal Military Stations of this Presidency; and that a recent case which has occurred at Bengal, has exemplified the danger which any man incurs, who suffers printed abuse of his character to remain unrefuted. In the face of such facts, I am convinced his Lordship in Council will not feel any surprise that, as a last recourse, I have felt myself compelled to throw myself on the Public; not only that I may be respected through life, but in order that my memory shall not be defiled when I am no more. The dilemma I am placed in is not of my creation, and might easily have been avoided, had it occurred to his Lordship in Council that justice to me required that a declaration should have issued from Authority, to the effect that my integrity remained unimpeached by any part of my proceedings connected with Colonel Ballantine's Case; and that he had failed to produce before the Commission at Ahmedabad one iota of proof in support of the calumnious aspersions he has circulated against me. I certainly expected that some declaration of this kind would have been considered my due, in order to disabuse the public mind on the subject:—I have been disappointed; but I never dreamt that I should be interdicted from pursuing the only course left open for my

vindication, and that Government would permit an inflammatory and abusive Pamphlet, consisting of an official Letter to the address of the Chief Secretary to Government, to be sent into circulation against me, and then prevent me from using the only materials that can absolve me from the imputations it contains. I cannot believe that such interdict is intended, the only effect of which can be to render abortive all attempt at self-justification.

7. In reference to the concluding part of your Letter, I beg to state that I have as yet published no pamphlet whatever ; but that I have addressed Letters to the Editors of the Courier and Gazette Newspapers, in reply to what his Lordship in Council is pleased to view "as a just and severe rebuke" for tendering for publication the Government Letter of October 1830. I attribute the remarks of the Editors to the ignorance which generally prevails respecting both sides of the Case I have to submit to the Public ; and my Letters in reply contain explanations I deemed necessary to dispel that ignorance. They do not, however, I am happy to state, contain any Letters from Government ; though they of course allude unavoidably to official proceedings, the right to make use of which I considered placed beyond doubt, by Government having, on more than one occasion, recognised my right to publish a vindication of my character from aspersions contained in an official document published, without censure or remark, three years ago.

I have the honour to be, &c.

(Signed) J. P. WILLOUGHBY.

RAJCOTE, 6th August, 1834.

No. 1386 of 1834.

POLITICAL DEPARTMENT.

BOMBAY CASTLE, 8th September, 1834.

SIR,

1. In reply to your Letter of the 6th ultimo, I am directed by the Governor in Council to inform you that, as you appear to have mistaken the orders of Government, his Lordship in Council altogether acquits you of having intentionally disobeyed them ; at the same time, I am directed to inform you that, from the beginning to the end of this enquiry, the Governor in Council never contemplated the possibility of the publication by you of official documents, which in all Departments, and particularly in the Political Department, are considered by his Lordship in Council as confidential. The prohibition, I am directed to state, is general, and extends, as you have been already informed, to the Proceedings of the Commission at Ahmedabad.

2. The Governor in Council, I am directed to state, strongly condemns the proceeding of Colonel Ballantine in having lithographed a Letter which he addressed in 1831 to the Chief Secretary ; and his Lordship in Council desires me again to assure you, that the unfounded attacks upon you in that Letter, of which you complain, have had no weight whatever with Government ; and that the strongest testimony has been borne to your high and honourable character in communicating the decision of the Governor in Council to the Honourable Court.

3. His Lordship in Council cannot, therefore, I am directed to state, think that any necessity existed for your appeal to the Public upon this occasion. Your high character stood in need of no

such step to clear it from the imputations of Colonel Ballantine.—You have, however, made your appeal:—you have told the Public, and with perfect truth, that the Governor in Council holds you in high estimation, and that he attaches no importance to the attacks made upon you. As these facts are notorious to every Officer, Civil and Military, in this Presidency, the Governor in Council, I am directed to state, is of opinion that, pending the receipt of the final Orders of the Honourable Court, you should remain satisfied with the consciousness that you have done your duty, that you are held in high estimation by his Lordship in Council and by the Public at large, and that you continue to enjoy the undiminished confidence of Government.

4. I am, in conclusion, desired to inform you that the decision of Government, prohibiting you from publishing any official documents, is final.

I have the honour to be, &c.

(Signed) W. H. WATHEN, *Secretary to Government.*

To J. P. Willoughby, Esquire, &c. &c. &c.

To Charles Norris, Esquire, Chief Secretary to Government.

SIR,

1. I have the honour to acknowledge the receipt of Mr. Secretary Wathen's Letters, dated the 8th and 12th instant.

2. With reference to the former, I cannot refrain from expressing my exceeding regret at being placed by Government in my present position. Innocent of all crime, I am publicly traduced by Colonel Ballantine, in a Letter to the Chief Secretary to Government, for having discharged my duty to the East India Company; and am then placed under such restrictions by Government as are tantamount to depriving me of the exercise of one of the most esteemed privileges of my Country.

3. The favourable sentiments entertained of my character by his Lordship in Council, being conveyed to me in a Letter which I am directed to regard as confidential, are not available to counteract the unfavourable impressions raised against me by the circulation of Colonel Ballantine's Pamphlet. Nothing but an unqualified public condemnation of that Pamphlet by Government, or my being permitted to reply to the serious charges it contains, unfettered by any restrictions whatsoever, can satisfy my wounded feelings; but the conclusion of Mr. Wathen's Letter of the 8th instant leaves me no other alternative but respectfully to appeal to Higher Authority for permission to pursue my object.

4. In reference to Mr. Wathen's Letter of the 12th instant, I beg to state, that my remarks upon the Letter to the Commission of the 8th of March last, were nearly ready for the copyist when the prohibition to submit them to Government reached me. I beg also to observe, that the defence of my conduct would be altogether incomplete, unless I am allowed to transmit these remarks for the consideration of Government, and the Honourable Court of Directors. Throughout your communication to the Commission there is a tone of inculpation against the Residency, which I think I have a right, if I am able, to shew to be undeserved; and in one instance Colonel Ballantine's conduct is extenuated, and the Residency reflected upon, because a certain Report was not made to Government, which Report I myself did make, and the Government acknowledgment thereof is in my possession. I cannot more

fully explain myself, without violating the order of Government not to comment upon the Letter adverted to; and I shall therefore close this (to me) painful correspondence by stating that, feeling myself, in various ways, seriously aggrieved and injured by the proceedings of Government since the Ahmedabad Commission made their Report, and being conscious that I have received blame and reproach I do not deserve, I shall, as soon as my official duties will permit, prepare a Memorial to the Honourable Court of Directors, with the full confidence that justice will ultimately be extended to me.

I have the honour to be, &c.

(Signed) J. P. WILLOUGHBY.

RAJCOTE, 27th September, 1834.

(True Copies.)

J. P. WILLOUGHBY, B. C. S.

Appendix M.

COLONEL BALLANTINE AND MR. WILLOUGHBY.

To the Editor of the Bombay Courier.

“ AUDI ALTERAM PARTEM.”

SIR,

I shall esteem it a favour by your giving publicity to the accompanying Letter, with a full understanding that, if any legal responsibilities can possibly attach to a man for defending his character against unfounded and unjust reproach and abuse, I am prepared to incur them.

The Case referred to in my Letter to Colonel Ballantine has been under discussion for several years past, and has no doubt excited the interest of many of your readers. The conduct of that Officer was recently submitted to the investigation of an impartial and competent Court of Justice, convened for the purpose at his express desire. He thought fit, about the time that this Court was assembled, to cause to be lithographed and circulated a Pamphlet of three hundred pages, containing vilifications and vituperations, without measure and without number, against me.

To this Pamphlet I am now preparing an answer, embracing the whole history of the Case, which I think will give all those who take any interest in it, a better opportunity of judging correctly between us than they have hitherto had; and my objects in requesting you to publish this Letter, and that which accompanies it, are to make known this my intention, and to let the world see that I have done my best to tempt my opponent to hazard the result of a more formal accusation and regular investigation, before falsifying his abusive imputations in the less defined, and, I can truly say to me less welcome, shape in which they have been put forward.

In the meantime, by way of undeceiving in some measure those who have been misled by Colonel Ballantine's Pamphlet, and shewing the light in which my proceedings throughout were viewed by the High Authority to whose judgment they were submitted, and under whose orders I

acted, I annex Copy of Mr. Chief Secretary Norris's Letter to me, dated the 5th of October, 1830*, the substance of which, with the exception of the last paragraph, is, I may mention, contained in Colonel Ballantine's Pamphlet.

I have, &c.

(Signed) J. P. WILLOUGHBY, *Bombay Civil Service.*

RAJCOTE, 28th June, 1834.

* As Mr. Willoughby himself states, in the 2d paragraph of this communication, that Colonel Ballantine's conduct was "*recently* submitted to the investigation of an impartial and competent Court of Justice," and we understand that *since* that Court (of Commissioners convened at Ahmedabad), which closed its proceedings, we believe, in 1832, sent in its Report, Colonel B. has been acquitted by the present Government of the most serious of the Charges of Dereliction of Duty on which he had been pronounced guilty during Sir John Malcolm's Administration, in the Letter of Mr. Chief Secretary Norris, dated the 5th of October, 1830; we do not think it would be fair towards Colonel B. to publish this document, containing, as it does, decisions which have been subsequently annulled or modified. From the Charges preferred against him having been laid before a special Commission for investigation by the present Government, it may be inferred that those decisions were considered to have been passed on questionable or insufficient grounds; and this inference seems to be strengthened by the fact that some of them have been since set aside. We think, therefore, that, in justice to Colonel B., the last decision of Government ought to be given, and that we would not be justified in inserting the Letter of the 5th October, 1830: moreover, its publication, under the circumstances we have mentioned, would, we apprehend, subject us to a prosecution for libel; and from some of the consequences it might not be in the power of any other person to relieve us.—*ED. COUR.*

Colonel F. D. Ballantine, 8th Regiment Bombay Native Infantry, Bombay.

SIR,

1. The decisions of the Right Honourable the Governor in Council upon the Charges against you, which were investigated by the Commission convened at Ahmedabad, having been made known, I feel myself relieved from the restraint imposed upon me so long as that investigation was in progress, and to be now at liberty to vindicate myself from the vituperation and abuse of my character in which you have so largely indulged on many occasions, and particularly in your Letter to the Chief Secretary to Government, dated the 16th of August, 1831, which, with the view, I presume, of forestalling public opinion in your favour, you caused to be lithographed, and afterwards circulated in this Presidency, about the time that a Commission had been nominated for the purpose of affording you the opportunity of establishing your integrity.

2. I beg to inform you, that under date the 22d of April last, I officially intimated to Government that it would be satisfactory to me were you peremptorily required to prove your accusations in recrimination of my conduct before a competent tribunal; and although ample opportunity was afforded you to establish them before the Commission assembled at Ahmedabad, I have little doubt that his Lordship in Council would be pleased to institute an enquiry into my conduct, on being informed by you that you were prepared to prove the whole or any part of the base and unworthy conduct imputed to me in your lithographed and circulated Letter above mentioned.

3. Having reason to infer, from the tenor of Mr. Chief Secretary Norris's Letter to your address, dated the 8th of March last, that you have, after the close of the proceedings of the Commission,

advanced further charges in recrimination against me, in a Letter to Government dated the 20th of August, 1832, of which, though they have been recorded, I have been unable to obtain a copy from Government, I call upon you to furnish me with a copy of so much of it as relates to me, unless you prefer to sit under the imputation to which you will obviously subject yourself by failing to comply with so reasonable a demand.

4. I need scarcely say that I am resolved to repel, in the most public manner, such of your accusations against me as I am acquainted with, and to give to the world the fullest means in my power of properly estimating our respective conduct; and I address you accordingly on this occasion, as well through the public Papers as by the Post, for the purpose of giving this information to those to whom your lithographed letter has been shewn, as well as to prevent, so far as I can do so, its being hereafter disputed that this notice reached you, as has already happened in regard to a point at issue between you and a gentleman connected with your Case.

I am, &c.

(Signed) J. P. WILLOUGHBY, *Bombay Civil Service.*

RAJCOTE, 28th June, 1834.

To the Editor of the Bombay Courier.

SIR,

Your Paper of the 15th instant has reached Rajcote this morning; and I feel myself called upon to offer, by return of Post, a few remarks on your Editorial observations appended to my Letter of the 28th ultimo.

I entirely concur with you that the recent decision of Government on Colonel Ballantine's Case should, in justice, not simply as you state, to him, but to all parties, be published, as well as the decision of the Commission which investigated his conduct. At the same time, most people will not, I think, fail to perceive that it is not quite so easy for me to give immediate publicity to these documents, as it is for my opponent to do so; and if, as you appear to suppose, they either annul or so modify the decision of the Government of 1830 as to hold him blameless, Colonel Ballantine will naturally resort to such an easy and satisfactory mode of relieving himself from blame.

At the same time I feel I have no right to complain of the exercise of your own discretion in withholding from publication Mr. Chief Secretary Norris's Letter of the 5th of October, 1830, though I consider (notwithstanding the acknowledged uncertainty of the Law of Libel), there is no danger of its being transgressed on my part, if, as I apprehend, it is necessary that he who appeals to law for redress, should be able to shew that he comes into Court with clean hands, or that he has not wantonly assailed the character of another.

The object of my desiring to give publicity to the Letter adverted to, was to correct public opinion on the subject of my collision with Colonel Ballantine, and to lead the community to expect that I have something to urge in self-vindication. For nearly three years I have been compelled to submit in silence to charges, which, if founded in truth, would render me deserving of a criminal prosecution; but to which I could offer no reply so long as my adversary's conduct was under judicial enquiry. I now, however, consider myself fully justified in publishing the favourable opinions

entertained of my conduct and proceedings by the Government of 1830, to counteract the unfavourable impressions which I know to prevail against me in some quarters, in consequence of my having been obliged to allow the accusations contained in Colonel Ballantine's Pamphlet to remain so long uncontradicted. All I demand is publicity, with free and temperate discussion; and there is not a paper in my possession, or within my power to produce, connected with the Case, that I am not most anxious to submit to the Public.

I annex, for the information of your readers, Copy of Colonel Ballantine's Reply to my Letter of the 28th ultimo; upon which I shall only remark, that Colonel Ballantine having set the example of appealing to the Press, I have cheerfully adopted the same course; and the Case is now, I conceive, removed (unless, indeed, Colonel Ballantine should see fit to endeavour to substantiate his accusations against me by a public enquiry) from the hands of Government, who, I am happy to state, has left it to my own discretion to adopt such measures as I may deem expedient for my own justification.

I am, &c.

(Signed) J. P. WILLOUGHBY, *Bombay Civil Service.*

RAJCOTE, 25th July, 1834.

BOMBAY, 14th July, 1834.

SIR,

I have to acknowledge the receipt of your Letter, dated Rajcote, 28th ultimo, and have to inform you that I have handed up a Copy of it to Government for their consideration; and that, until I receive the sentiments of his Lordship in Council upon it, I decline having any communication with you on the matters referred to in it.

I am, &c.

(Signed) F. D. BALLANTINE, *Colonel.*

To Mr. Willoughby, Civil Service, Rajcote.

To the Editor of the Bombay Courier.

SIR,

In consequence of having seen in your Paper of last Tuesday, the 15th instant, a communication you have thought fit to publish, made to you by Mr. J. P. Willoughby, of the Bombay Civil Service, relating to myself, and matters which have long since been the subject of official Report to Government, I shall only observe that all the official matters therein referred to I leave entirely with Government; and that with regard to the other parts of Mr. Willoughby's Letter, I have myself personally communicated with him.

I am, &c.

(Signed) F. D. BALLANTINE, *Colonel 8th Regiment N. I.*

BOMBAY, 18th July, 1834.

Y

In our Tuesday's Paper we promised a continuation of the Correspondence between Mr. Willoughby and Colonel Ballantine; but, independently of the slight interest of these Letters to our readers at large, we have received information, through a channel we cannot question, that impediments exist to its further insertion. Mr. Willoughby will, no doubt, be informed of the reasons which cause its rejection, and will therefore excuse our non-insertion of his last Letters.—ED. COURIER, 23d August, 1834.

LETTERS REFERRED TO IN THE ABOVE NOTICE.

To the Editor of the Bombay Courier.

SIR,

1. Lest the Public should come to any erroneous conclusion upon the subject matter of Colonel Ballantine's personal communication made to me, as stated in the concluding part of his Letter to you, dated the 18th instant, and published in your Paper of the following day—lest, in fact, it should be understood that Colonel Ballantine has complied with the requests contained in my Letter of the 28th June, I have to request the favour of your giving publicity to that communication, as the only public notice it at presents merits; and of course Colonel Ballantine will, if he think proper, give equal publicity to my reply of this date, addressed to himself, in which, for strong and sufficient reasons assigned, I have declined to hold any further communication with him whatsoever.

2. Requests the Editor to republish the Letter, which follows, to the Editor of the Gazette.

3. Returns thanks to the Editor for publishing the preceding correspondence.

I am, &c.

(Signed) J. P. WILLOUGHBY, *Bombay Civil Service.*

RAJCOTE, 30th July, 1834.

ENCLOSURE IN THE ABOVE.

To J. P. Willoughby, Esquire, Bombay Civil Service, Rajcote.

BOMBAY, 18th July, 1834.

SIR,

I beg to enclose you a Copy of a Letter I have this day addressed to the Editor of the Bombay Courier, in consequence of your communication to me under date the 28th June last, Rajcote, appearing in last Tuesday's Publication. In justice to myself, I must add that, with regard to those parts of your Letter in which you state I have indulged on many occasions in vituperation and abuse against your character, if you will particularize the instances, or any one of them, in which I have done so, I shall be able, I have no doubt, to afford you every satisfaction you may require, either through the Courts of Law, or by any other mode you may think proper to adopt.

I am, &c.

(Signed) F. D. BALLANTINE, *Colonel.*

We must decline publishing the Letter sent to us under Mr. Willoughby's signature, with its two enclosures:—one of those enclosures conveys the decision to which Government came, on certain points against Colonel Ballantine, in 1830, but which, we understand, has, on subsequent investigation, been in a great measure reversed. To give publicity to an unfavourable decision against a public Officer, without, at the same time, giving the subsequent proceedings which reverse it either wholly or in part, would, we conceive, be extremely unfair. Had the whole of the proceedings been sent to us, we should have had no objection to their publication.—ED. BOMBAY GAZETTE, 16th July, 1834.

MR. WILLOUGHBY AND COLONEL BALLANTINE.

To the Editor of the Bombay Gazette.

SIR,

In consequence of the reason assigned in your Paper of the 16th instant, for withholding from publication my communication of the 28th ultimo, I feel myself called upon to offer the following explanation:—

I think you have not duly considered the peculiar situation in which I am placed; and this may probably be attributed to the imperfect information you possess of the circumstances which have compelled me to intrude myself on public notice: and hence your remarks leave me no option but to anticipate in some measure the defence of my proceedings under preparation, and at once to explain, as briefly as I can, that my collision with Colonel Ballantine has solely originated in the performance of official duties imposed upon me by authority I could not disobey.

On the 16th of July, 1828, I was instructed by my official superior, the Resident of Baroda, to report upon a public account which Colonel Ballantine, on his removal from his situation of Political Agent in the Mahee Caunta, had rendered to his Assistant, Mr. Hornby; and on the 7th November following I was in like manner required by Mr. Secretary Bax to report on an amended statement of this account, furnished by Colonel Ballantine to the Accountant General of Bombay. I obeyed these orders in two Letters, dated the 20th of September, and the 17th of December, 1828; and my Reports having been transmitted to Colonel Ballantine, they were replied to by him in October 1829, in a Letter consisting of 175 Sheets, with an Appendix of 145 Sheets. It was on these Documents, and after an opportunity had been afforded to Colonel Ballantine of submitting his conduct to a judicial enquiry, that I received from the Government of 1830, the Letter which you have objected to publish. A change of Administration having taken place in March 1831, Colonel Ballantine, in August following, appealed against the decision of the preceding Government, and obtained a special Commission, consisting of Messrs. Lumsden and Pelly, of the Civil Service, and Captain Rankin, Paymaster of the N.D.A., to enquire into his conduct, before which I was directed to appear as Prosecutor on the part of Government. The enquiry has terminated in another decision being passed by the present Government; and if, as you suppose, this last decision has placed Colonel Ballantine in a more advantageous position than formerly, or if it in any way supports the injurious statements he has published against my character, the straight-forward course for him to adopt, is to give it publicity. I can only add, that it would give me unfeigned satisfaction were it in my power to publish this decision, and the whole of the proceedings connected with the Case, through the medium of your Journal, as you suggest; because I feel persuaded no other refutation of Colonel Ballantine's unjust attacks upon me would then be required.

So far the questions at issue between us solely depended on the decision of Government ; and no exculpatory measures would have been required on my part, had not Colonel Ballantine a short time previous to the assembling of the Commission at Ahmedabad, nearly three years ago, sent into circulation a Pamphlet, consisting of a Letter to the Chief Secretary to Government, containing reflections most injurious to my character and reputation. And when you are informed that in this the world is broadly and undisguisedly led to believe that I was guilty of conduct amounting to subornation of perjury—that I forged a document, and manufactured false evidence in support of my Letters reporting upon Colonel Ballantine's Account—and that I have been guilty of other dishonourable conduct—neither yourself nor the community can feel surprised that, when labouring under such disgraceful imputations, I should feel myself justified in giving publicity to any documents in my possession tending to exonerate me from such charges ; more especially when it is considered how long I have been compelled from circumstances to permit them to remain in circulation uncontradicted. The document I requested you to publish, with the exception of the last paragraph, which solely relates to my conduct, was in substance inserted in Colonel Ballantine's Publication. I, therefore, with the view of undeceiving those who had been misled by the perusal of that Publication, wished to avail myself of it, as containing the high approbation of my proceedings expressed by the Government of 1830, who, from having all the facts of the Case elicited up to that date before them, it must be admitted were most competent to pass an impartial decision. In doing this, I signified at the same time my intention to submit, at a future period, a full and complete vindication of my conduct to the Public :—I do not therefore consider that I have evinced any inclination to publish by such a Letter an *ex-parte* statement reflecting on another, though I can justly complain such an objectionable proceeding has long since been adopted to my prejudice.

The decision of the Government of 1830—and I feel myself bound to state this fact, as much in justice to that decision as myself—was moreover entirely confirmed by the decision of the Commission, founded on a patient and laborious enquiry of six months and upwards ; and though, on grounds I cannot at present explain, both have been annulled in some respects, and modified in others, by the decision of Government of March last—and although I have been censured for neglect of duty in not having prevented irregularities which occurred in the Mahee Caunta—these modifications are communicated to me, accompanied by the most explicit declarations on the part of Government, of its full conviction of the purity of my motives, and of the integrity of my moral character being unimpeached ; and I have been informed that Colonel Ballantine's attacks upon me have had no weight with it. The truth of this I shall be able to prove by-and-by ; but in the meantime the simple fact of my filling a high and responsible situation under Government will, I should think, be held by the community as sufficient evidence that such is the case.

No one can be more sensible than myself of the difficulties and embarrassments which are likely to be encountered by a Servant of Government in this Country who is obliged to submit his official conduct to the ordeal of public opinion ; and no one would have felt more gratified than myself in discovering some other mode by which, consistently with the maintenance of my own honour, I could have avoided this necessity : for, unhappily, I cannot justify myself without condemning another. I am also aware of the prejudice I have excited from the fearless discharge of a most obnoxious duty ; and have consequently reason to expect that, though strictly acting on the defensive, every step I take will be open to cavil and objection. The stake I am contending for, and the consciousness I feel that the whole of my proceedings in this matter will stand the test of the most rigid scrutiny, will, however, carry me through every difficulty ; and, whatever may be the result, I never can tamely submit to unmerited opprobrium and abuse when, as the community, I hope, will soon have reason to feel, a far different desert is my due. I am sanguine that truth will ultimately prevail ; and I am much mistaken in my ideas of the duty of those who conduct the public Press, if I do not find them disposed

to afford me all the aid in their power in defending myself from accusations unsupported, up to this late period, by one iota of proof.

I trust to your sense of justice to give publicity to this Letter; because I conceive the explanation it contains, necessary to prevent the possibility, in consequence of your remarks upon the preliminary step I have adopted towards my vindication, being misconstrued. At the same time I have no desire that you should change your resolution not to publish my Letter of the 28th ultimo. I am indebted to the courtesy of your contemporary for the attainment of the principal object that communication had in view, *viz.* to advise the Public that I intend, as early as I am able, to reply to Colonel Ballantine's Pamphlet; and to induce them in the meantime to suspend their judgment on the accusations he has thought fit to circulate against me.

I have, &c.

(Signed) J. P. WILLOUGHBY, *Bombay Civil Service.*

RAJCOTE, 28th July, 1834.

Letter from the Government of 1830, referred to in the preceding Correspondence.

No. 1365.

POLITICAL DEPARTMENT.

BOMBAY CASTLE, 5th October, 1830.

SIR,

1. With reference to your Letters noted in the margin *, I am directed by the Honourable the Governor in Council to inform you that Colonel Ballantine, your predecessor in the Mahee Caunta Agency, has been called upon by Government to answer to the Charges preferred against him in those communications; that his answer has been received; and that, after a full consideration of the whole subject, the Governor in Council has come to the conclusion that Colonel Ballantine has been guilty of dereliction of duty in the following instances, to which effect he has been informed accordingly:—

1st. In failing to deliver over to his successor the Records of his Agency, English or Native, in a complete state.

2d. In failing to deliver over account-books, the keeping of which must have been essential to the due discharge of his duties; and some of which, from the evidence of persons on the Political Agent's Establishment, are known to have existed.

3d. In furnishing the Resident of Baroda and the Accountant General with irregular, inconsistent, and incorrect accounts; the results of which are far more favourable to his pecuniary interests than could have been exhibited by correct and true accounts.

4th. In having levied Mohsullee beyond what was required as compensation for the Mohsul, after the orders of Government, expressly forbidding such excess of levy, had been communicated to him. Also in having unauthorizedly levied, without any account rendered, various collections in the Sadra Bazar.

* 20th September, 1828; 17th December, 1828.

5th. In having received from the Guicawar, or, which was the same thing, deducted in his accounts with the Guicawar, from the Tribute of the Mahee Caunta remittable to Baroda, a sum of Rupees 7705 per annum, on account of Seerpao, or annual Presents to the Chiefs, and not having disbursed it in the way intended; but, on the contrary, having converted it, either wholly or in part, to his own benefit.

2. The Governor in Council having pronounced this decision, feels it, I am directed to observe, an act of justice to express to you the high sense which he entertains of the uncompromising determination to perform your public duty; and the regard for the honour of the British name in India, which influenced you to prosecute those laborious and painful investigations which have led to the above-mentioned result.

I have, &c.

(Signed) C. NORRIS, *Chief Secretary.*

To J. P. Willoughby, Esquire.

(True Copies.)

J. P. WILLOUGHBY, *B. C. S.*

Appendix N.

No. 932.

POLITICAL DEPARTMENT.

To H. Borrodaile, Esquire, Collector of Customs in Gujerat, Surat.

SIR,

1. I am directed by the Right Honourable the Governor in Council to transmit to you the accompanying Volume, containing the Proceedings of the Commission which sat to investigate the Charges brought by Mr. Willoughby against Colonel Ballantine, upon the 4th Charge, "for dereliction of duty in furnishing his successor, the Resident at Baroda, the Accountant General, and Government with irregular, inconsistent, and incorrect accounts, the results of which are far more favourable to his pecuniary interests than could have been exhibited by correct and true accounts."

2. The Right Honourable the Governor in Council requests that you will, with the assistance of as many good Accountants as you will require, examine all these complicated accounts, and report, at your earliest convenience, to Government what sum you conceive Colonel Ballantine liable to pay, on a full consideration of the documents before you.

3. His Lordship in Council imposes this duty on you, I am directed to state, in the confident expectation that you will be enabled to throw additional light on these complicated accounts, and that you will come to as correct a conclusion as the nature of the documents transmitted will admit of. You will clearly understand that the question submitted to you is one of account only, and that your opinion is not required on any other point.

4. Colonel Ballantine has been informed of this reference to you, and has been apprized that he will be at liberty, until the 1st of July, to state whether he will produce his original accounts (which have never yet been investigated before). Should he do so, both he and Mr. Willoughby will be directed to attend you :—should he not do so, the question must be decided on the accounts which he has given in ; and in this case neither of these Gentlemen will attend.

5. The Governor in Council does not anticipate your being engaged in this investigation for a longer period than a few weeks, during which time you will be relieved from your ordinary duties, which will be performed by Mr. Pelly.

6. Lists of the English and Native Papers transmitted to you, in addition to the Volume of Proceedings, are herewith enclosed.

I have the honour to be, &c.

BOMBAY CASTLE, 8th June, 1838.

(Signed) C. NORRIS, *Chief Secretary.*

(True Copy.)

(Signed) C. NORRIS, *Chief Secretary.*

(True Copy.)

J. P. WILLOUGHBY, *B. C. S.*

FINIS.

